

1 REPORTER'S RECORD
2 APPELLATE COURT CAUSE NO. AP-76,100
3 TRIAL COURT CAUSE NO. 04-CR-3453-C
4 VOLUME 17 OF 25 VOLUMES
5 THE STATE OF TEXAS) IN THE DISTRICT COURT
6 VS.) 94TH JUDICIAL DISTRICT
7 JOHN HENRY RAMIREZ) NUECES COUNTY, TEXAS
8
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11

12 TRIAL PROCEEDINGS
13 (Continued)

14 **FILED IN**
15 **COURT OF CRIMINAL APPEALS**

16 **OCT 06 2009**

17 **Louise Pearson, Clerk**
18

19 On the 2nd day of December, 2008, the
20 following proceedings came on to be heard in the
21 above-entitled and numbered cause before the HONORABLE
22 BOBBY GALVAN, Judge Presiding, held in Corpus Christi,
23 Nueces County, Texas:

24 Proceedings reported by Stenograph
25 Machine.

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6

1 PROCEEDINGS

2 December 2, 2008

3 (Out of the presence of the jury.)

4 THE COURT: You ready?

5 MR. SKURKA: We're ready.

6 THE COURT: You ready, too?

7 MR. GARZA: We're ready, Judge.

8 THE COURT: Where's Frank? Is he in the

9 jury room? Oh, Frank, I guess go get them. Oh, and

10 we need the witness.

11 Yeah, you know what, Frank, why don't you

12 get the -- I'll get the witness, I'll get the witness.

13 You get the jury.

14 (Jury enters courtroom.)

15 THE COURT: All right, come on in and

16 take your seat. All right, be seated, please.

17 All right, cross.

18 MR. GARZA: Yes, Your Honor.

19

20 GREG KINANE,

21 having been previously duly sworn, testified as

22 follows:

23 CROSS-EXAMINATION

24 BY MR. GARZA:

25 Q. Officer Kinane, good morning. My name is Ed

7

1 Garza. I think I had introduced myself to you in the

2 hallway previously.

3 A. Yes, sir.

4 Q. On that particular evening I want to direct

5 your attention where you investigated the alleged

6 robbery on Texan Trail. By the time you arrived there

7 I guess it's safe to say that everything had already

8 happened; is that correct?

9 A. Correct.

10 Q. That which was reported to you, you did not

11 personally observe or witness yourself; is that

12 correct?

13 A. Correct.

14 Q. And you didn't have occasion to witness any

15 wrongdoing on the part of my client there at that

16 particular evening; is that correct?

17 A. That is correct.

18 Q. Nor anything else?

19 A. Correct.

20 Q. Okay. I don't believe I have any other

21 questions of you, sir.

22 THE COURT: All right. Anything else,

23 Mr. Skurka?

24 MR. SKURKA: No, Your Honor.

25 THE COURT: May this witness be excused?

8

1 MR. SKURKA: Yes, Your Honor.

2 THE COURT: Please don't discuss your

3 testimony with anyone.

4 THE WITNESS: Thank you.

5 THE COURT: All right. Call your next

6 witness.

7 MR. SKURKA: Ruby Pena, Your Honor.

8 THE COURT: All right. Ruby Pena.

9 (Oath administered.)

10 THE COURT: All right, be seated. You

11 may proceed.

12 MR. SKURKA: Thank you, Your Honor.

13

14 RUBY PENA HINOJOSA,

15 having been first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SKURKA:

18 Q. Would you introduce yourself to the folks on

19 our jury, please.

20 A. Hello, I'm Ruby Pena Hinojosa.

21 Q. How are you currently employed?

22 A. How am I currently employed?

23 Q. Where are you currently employed?

24 A. Driscoll Hospital.

25 Q. And what do you do there?

9

1 A. I'm a respiratory therapist.

2 Q. What does that mean?

3 A. I work with the lungs basically.

4 Q. How long have you worked at Driscoll

5 Children's Hospital?

6 A. About 16 years.

7 Q. Do have any special training to be a

8 respiratory therapist, education?

9 A. Yes.

10 Q. Could you briefly tell the jury what that

11 would be?

12 A. Specialty exams and college basically.

13 Q. Do you have a college degree?

14 A. Yes, sir.

15 Q. And can you tell us what that is in?

16 A. It's respiratory therapy.

17 Q. I'm going to direct your attention,

18 Ms. Hinojosa, to a time of July 19th, 2004, and ask

19 you if you were working that day.

20 A. Yes, I was working that day.

21 Q. What were your hours on that day?

22 A. Night shift, 6 P. To 6 A.

23 Q. Say that again.

24 A. 6 P. To 6 A., night shift.

25 Q. So you work a 12-hour shift?

<p style="text-align: right;">10</p> <p>1 A. Yes, sir.</p> <p>2 Q. Would you do me a favor and move that</p> <p>3 microphone a little closer to you so we can hear you a</p> <p>4 little bit better.</p> <p>5 A. I'll sit up.</p> <p>6 Q. Or you can sit up a little closer. Thank you</p> <p>7 very much.</p> <p>8 So during that time when do you usually take</p> <p>9 a -- I guess a dinner break or a lunch break?</p> <p>10 A. It varies. I mean, I think that night I went</p> <p>11 around 10:30, 11:00.</p> <p>12 Q. Where did you go on that evening to have</p> <p>13 dinner or lunch?</p> <p>14 A. I went to the Whataburger on Alameda and</p> <p>15 Texan Trail.</p> <p>16 Q. How far is that from Driscoll Children's</p> <p>17 Hospital?</p> <p>18 A. Half a mile, I'm not sure.</p> <p>19 MR. SKURKA: May I approach the witness,</p> <p>20 Your Honor?</p> <p>21 THE COURT: Yes.</p> <p>22 Q. (BY MR. SKURKA) I have a series of</p> <p>23 photographs, they're marked State's Exhibit 45, 46 and</p> <p>24 47. Could you look at them and tell me if you</p> <p>25 recognize that?</p>	<p style="text-align: right;">12</p> <p>1 Q. Yes, ma'am.</p> <p>2 A. I think that hits Staples.</p> <p>3 Q. Okay. Is Ray High School in that area?</p> <p>4 A. Back in here somewhere.</p> <p>5 MR. SKURKA: Let's show the next</p> <p>6 photograph, please, 46.</p> <p>7 Q. (BY MR. SKURKA) Does that also show the</p> <p>8 Whataburger's location, ma'am?</p> <p>9 A. Right there.</p> <p>10 Q. And what is that big building to the left?</p> <p>11 A. This one here?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. I think that's Family Practice Associates and</p> <p>14 Doctor's Regional next to it.</p> <p>15 Q. Okay. And the next photograph, please. Does</p> <p>16 that show it a little closer up?</p> <p>17 A. Yes, it does.</p> <p>18 Q. And it shows where the Whataburger is?</p> <p>19 A. Yes, it does.</p> <p>20 Q. Okay. You said you went to that Whataburger.</p> <p>21 Why?</p> <p>22 A. I was hungry, it was my lunch break.</p> <p>23 Q. Where did you -- did you go inside or through</p> <p>24 the drive-through?</p> <p>25 A. No, I went through the drive-through.</p>
<p style="text-align: right;">11</p> <p>1 A. Yes.</p> <p>2 Q. What is it?</p> <p>3 A. It's the aerial view of the Whataburger and</p> <p>4 the surrounding areas.</p> <p>5 MR. SKURKA: I'll tender 45, 46, and 47</p> <p>6 to Defense Counsel and offer them into evidence.</p> <p>7 MR. GARZA: No objection, Your Honor.</p> <p>8 THE COURT: They're admitted.</p> <p>9 MR. SKURKA: May I publish them to the</p> <p>10 jury, Your Honor?</p> <p>11 THE COURT: You may.</p> <p>12 Q. (BY MR. SKURKA) Let's start with 45, and</p> <p>13 there's a laser pointer there laying there in front of</p> <p>14 you, and could you show us where this Whataburger is</p> <p>15 in there, and I've got, like I said, three of them.</p> <p>16 First of all, show us where Alameda is.</p> <p>17 A. I believe it's this street right here.</p> <p>18 Q. Okay. So that's the road down at the bottom</p> <p>19 left of the picture. And where would Texan Trail be,</p> <p>20 please?</p> <p>21 A. Right there.</p> <p>22 Q. Okay. So then Texan Trail extends from</p> <p>23 Alameda. What would be the next street if you follow</p> <p>24 it up Texan Trail?</p> <p>25 A. If I followed up Texan Trail this way?</p>	<p style="text-align: right;">13</p> <p>1 Q. Tell the jury what happened as you were in</p> <p>2 the drive-through at the Whataburger, please.</p> <p>3 A. I was at the menu board and there was a car</p> <p>4 in front of me at the pick-up window and a van pulled</p> <p>5 up to my right side and a lady got out and asked if</p> <p>6 she could use my cell phone, and I gestured "No, go</p> <p>7 inside," and when I pointed inside I saw through my</p> <p>8 periphery a man at my driver's side window put a knife</p> <p>9 to my neck and ask for my money and I told him I</p> <p>10 didn't have any money and then he gestured again "Give</p> <p>11 me your money," and I told him I didn't have any money</p> <p>12 and leaned away and raised my window.</p> <p>13 And at that point he went to the passenger</p> <p>14 side and started I guess just banging at my window</p> <p>15 with the knife as the girl was there watching as well.</p> <p>16 Q. Was he gesturing with a knife or actually</p> <p>17 striking with the knife?</p> <p>18 A. He scratched my window with the blade of the</p> <p>19 knife and then I back up and the van left and they</p> <p>20 took off down Texan Trail.</p> <p>21 Q. Is the person who held a knife to you and</p> <p>22 robbed you that night, is that person in the courtroom</p> <p>23 today?</p> <p>24 A. Yes.</p> <p>25 Q. Can you point to him, describe something he's</p>

14

1 wearing?

2 A. A purple -- purple shirt.

3 MR. SKURKA: Your Honor, may the record

4 reflect the witness has identified the Defendant?

5 THE COURT: It will so reflect.

6 Q. (BY MR. SKURKA) You went through the story a

7 little fast so I'm going to go down and back up and

8 break it down first, okay? You said that a van pulled

9 up. Did the van pull up close to you in, like, a

10 parking space or by the -- in the drive-through?

11 A. The driver -- there's the driver's lane A and

12 lane B. They were in lane B.

13 Q. Okay. So you would have been in the lane

14 closest to the building. Would that be fair to say?

15 A. Yes.

16 Q. And they were in the outside lane?

17 A. Yes.

18 Q. Can you describe this van or color, make or

19 model, or anything like that?

20 A. Make and model, no. It didn't have windows,

21 it's like panel van, a maroon color.

22 Q. What do you mean, a panel van?

23 A. It didn't have the windows on the side, it

24 was just -- I don't know what you call those.

25 Q. And what color was it, if you recall?

15

1 A. I believe maroon or burgundy, dark.

2 Q. How many people did you see get out of the

3 van?

4 A. A male and a female, there were two.

5 Q. Did you see anybody else that remained in the

6 van?

7 A. No, I didn't.

8 Q. What did you think when you first saw these

9 people get out of the van and approach your car?

10 A. Nothing, nothing of it. I didn't think

11 anything of it.

12 Q. Was there anything -- and when they

13 first approached your car, did they approach the

14 passenger side or the driver's side?

15 A. It was just the female that approached my

16 car, I never saw the male come around my side.

17 Q. That's what I was trying to say to you, you

18 said -- you said you saw both of them get out of the

19 van?

20 A. Oh, I'm sorry. No, I never saw them until --

21 I saw them leave together, put it that way.

22 Q. Let's start at the beginning. When you're

23 sitting in the -- in the drive-through, how many

24 people did you see --

25 A. One.

16

1 Q. -- get out of the van?

2 A. One, a female; one female.

3 Q. Okay. And that's a female that you said

4 approached you; correct?

5 A. Right.

6 Q. Did you ever see the male until he appeared

7 at your driver's side window?

8 A. Never saw him until he appeared at my

9 driver's side window.

10 Q. How long was the female there I guess talking

11 to you or trying to use the phone?

12 A. A minute.

13 Q. Do you recall what she said, if anything?

14 A. Just "Can I use your phone?"

15 Q. That's all?

16 A. Yes.

17 Q. Could you see anything unusual about her

18 clothing?

19 A. No.

20 Q. Was your attention pretty much focused on her

21 when you were having a conversation with her?

22 A. Yes.

23 Q. How long did it take before the man showed up

24 at your driver's side window?

25 A. Less than a minute.

17

1 Q. And can you describe him, the general

2 description, how he looked that night. I know that

3 you've described him in court, pointed him out in the

4 courtroom, but how did he look that night?

5 A. I don't recall what he was wearing, I just

6 remember the face.

7 Q. So mostly you focused on his face?

8 A. Right.

9 Q. How far away was his face from you when he

10 was at your window?

11 A. 12 inches.

12 Q. Was there anything obscuring your view of

13 him?

14 A. No.

15 Q. How was the lighting out there by the menu

16 board?

17 A. It was well lit.

18 Q. So you got to see the Defendant some 12

19 inches away from your face?

20 A. Yes.

21 Q. How long -- when he was there, did he ask you

22 for anything else besides your money, like purse,

23 wallet, anything like that?

24 A. No, sir.

25 Q. Could you describe for us how he held the

18

1 knife at you, and I'll ask you to come on down here
 2 and I'll just play you. Come on down.
 3 A. Sure.
 4 Q. Now, if you would, pretend for me, if you
 5 would, that I'm you sitting in the car driving and
 6 tell me -- and you're him, and tell me where he came
 7 from and what he did, and I'm going to give you this
 8 pen to act as a knife and I want you to show the jury
 9 exactly what happened as you're sitting in your car
 10 like this.
 11 A. Well, just held the knife --
 12 Q. You have to talk loud.
 13 A. Held a knife to my neck and asked for my
 14 money.
 15 Q. He had it to the side of your neck --
 16 A. Yes.
 17 Q. -- or to the front of your neck?
 18 A. The side.
 19 Q. Okay. And was he using his right hand or his
 20 left hand, can you tell?
 21 A. I don't recall.
 22 Q. And can you tell me his tone or demeanor as
 23 he's doing this to you?
 24 A. Just simply "Give me your money."
 25 Q. He wasn't yelling at you?

19

1 A. No.
 2 Q. Quiet to you?
 3 A. No.
 4 Q. Just a normal voice?
 5 A. Uh-huh.
 6 Q. And he held the knife against your neck for
 7 how long?
 8 A. Well, it was like "Give me your money," and
 9 then pulled away and then "Give me your money," and I
 10 pulled away.
 11 Q. Okay. So you were able to pull away from him
 12 in the neck?
 13 A. Yes.
 14 Q. Where is your remote control for your
 15 windows?
 16 A. On my left-hand side.
 17 Q. Your left-hand side here?
 18 A. Yes.
 19 Q. Okay. Is that when you hit the window to --
 20 when you hit the window to roll up the deal, and I'm
 21 going to -- the window, how -- did his arm get caught
 22 in the window or just --
 23 A. No, he just kind of swaggered back like this.
 24 Q. He swaggered back?
 25 A. Yes.

20

1 Q. But he had to withdraw his hand, though,
 2 right --
 3 A. Right.
 4 Q. -- did he not? Thank you, you can go ahead
 5 and have a seat.
 6 Can you describe -- can you describe for us
 7 the knife itself, length, height?
 8 A. It looked thick and about so long, serrated.
 9 MR. SKURKA: Frank, do we still have that
 10 ruler up here?
 11 Q. (BY MR. SKURKA) I have a ruler up here.
 12 Maybe you can get how many inches you think it was
 13 cause the jury can't see how many inches. You say it
 14 was thick and it had serrated edges?
 15 A. Yes, sir.
 16 Q. Could you tell if it was a folding-type knife
 17 or a fixed-blade knife, or do you know?
 18 A. I don't know.
 19 Q. Do you know what I'm saying --
 20 A. Yes.
 21 Q. -- the difference between those? You just
 22 couldn't tell? Here's a ruler, maybe that would help
 23 you to estimate the length of the knife.
 24 A. As I recall, maybe five or six inches.
 25 Q. Five to six inches long?

21

1 A. Uh-huh, yes, sir.
 2 Q. Can you recall anything else about it, the
 3 color of it, the handle?
 4 A. No, sir.
 5 Q. Okay. And you don't know if it was a fixed
 6 blade or a knife that folds?
 7 A. No, sir.
 8 Q. How did you feel when he came up to you with
 9 that knife?
 10 A. Well, threatened for my life.
 11 Q. How was it you were able to think clearly
 12 enough to close the window on him?
 13 A. Good grace of God, I don't know.
 14 Q. Did he get any money from you?
 15 A. No, sir.
 16 Q. What was the woman doing? As he's over on
 17 this side with the knife, the woman had been on the
 18 passenger side asking you for a phone or whatever.
 19 What was she doing all this time?
 20 A. Well, my attention was on him but then when
 21 he went to the other side with her I saw her crouch,
 22 looking in through the other window.
 23 Q. The other window meaning?
 24 A. My right passenger side window.
 25 Q. So she still was there?

22

1 A. Yes, sir.
 2 Q. Did you get a good look at her?
 3 A. Yes, sir.
 4 Q. And can you give us a description of her,
 5 please.
 6 A. As I recall, she was -- I remember long hair,
 7 long wavy hair.
 8 Q. Anything else you can recall about her?
 9 A. Thin.
 10 Q. Can you tell us after he had to pull back
 11 from the driver's side where he went immediately? Did
 12 he go in front of the car, behind the car?
 13 A. He went behind the car.
 14 Q. And to what side?
 15 A. Behind the car to my passenger side.
 16 Q. You mentioned several times -- you mentioned
 17 before that he actually struck your window with a
 18 knife?
 19 A. Yes, sir.
 20 Q. What was his attitude or demeanor, what was
 21 he saying when he was doing that?
 22 A. Well, I thought they were going to break my
 23 window so I reversed the car.
 24 Q. Let me ask the question again: Did he say
 25 anything, or how was he acting when he was striking

23

1 your window?
 2 A. I don't recall what he was saying but it was
 3 just repeatedly hitting my window with the blade.
 4 Q. And you reversed at that time?
 5 A. Yes, sir.
 6 Q. I'm going to show another series of
 7 photographs, please.
 8 MR. SKURKA: May I approach?
 9 THE COURT: Yes.
 10 Q. (BY MR. SKURKA) 48 through 58. Please take
 11 a look at these to yourself.
 12 A. (Witness complying.)
 13 Q. Do you recognize what's depicted in the
 14 photos?
 15 A. Yes, sir.
 16 Q. What are they?
 17 A. Some aerials of Whataburgers and some
 18 snapshots of Whataburgers and some shots of my car.
 19 Q. Okay. For the record, 48 through 51 appear
 20 to be aerial photographs that were taken during the
 21 day time; correct?
 22 A. Yes.
 23 Q. And would it be fair to say that 52 through
 24 58 were taken that night at the scene?
 25 A. Yes.

24

1 Q. But these pictures all fairly and accurately
 2 represent the scene at this Whataburger; correct?
 3 A. Yes.
 4 MR. SKURKA: I'll tender 48 through
 5 58 to Defense Counsel and offer them into evidence.
 6 MR. GARZA: No objections, Your Honor.
 7 THE COURT: All right, they're
 8 admitted.
 9 Q. (BY MR. SKURKA) I'm going to go through
 10 these photographs with you for a minute and let's
 11 start with the aerial photographs. I'm going to show
 12 you what's been marked State's Exhibit No. 48.
 13 Using a laser pointer can you show us
 14 essentially the parking lot and where you were at, if
 15 that photograph shows it, and I've got some others too
 16 if that doesn't show it very well.
 17 A. I was basically in this area.
 18 Q. For the record, you're showing the side of
 19 the building there --
 20 A. The side of the Whataburger.
 21 Q. -- of the Whataburger on the left side?
 22 A. Yes, sir.
 23 MR. SKURKA: Thank you, Frank.
 24 Q. (BY MR. SKURKA) I have some other angles,
 25 49. What does that depict?

25

1 A. The Whataburger, and I was all the way back
 2 in there.
 3 Q. Okay. How do you get to the drive-through,
 4 please?
 5 A. I had to enter here, drive all the way around
 6 and order.
 7 Q. Okay.
 8 MR. SKURKA: Geordie, would you close in
 9 on this part right here?
 10 MR. SCHIMMEL: Uh-huh.
 11 Q. (BY MR. SKURKA) Now, what is this right in
 12 here?
 13 A. That looks like the menu board.
 14 Q. Okay. Were you at the menu board itself or
 15 were you on your way up to pick up the food here?
 16 A. I was in between.
 17 Q. Okay. So you were literally between the menu
 18 board and the -- I call it the pick-up window, I
 19 guess?
 20 A. Yes, sir.
 21 Q. Okay. So you had already ordered, I'm
 22 assuming?
 23 A. Yes.
 24 Q. Was there another car in front of you --
 25 A. Yes, sir.

26

1 Q. -- at the pick-up window?
 2 A. Yes, there was.
 3 Q. Was there any car behind you?
 4 A. No.
 5 Q. Now, looking at that photograph, where would
 6 your car be and where would the van be?
 7 A. My car would be in this lane and the van
 8 would be in the lane next to me.
 9 Q. Okay. Does this show it a little closer, No.
 10 50? Which shows the area better of where your car
 11 would have been located?
 12 A. With the -- the wall right here.
 13 Q. Okay. And the van would be next to it?
 14 A. Yes, sir.
 15 Q. I'll tell you what I'll do, then, I'm going
 16 to have you look at this picture and what I'd like you
 17 to do is draw a little rectangle showing your car and
 18 then where the van is next to it. Here's a pen. Do
 19 you understand what I'm saying?
 20 A. Draw a rectangle?
 21 Q. Well, where you would be to symbolize the
 22 car.
 23 A. Do you want me to mark on your picture?
 24 Q. Yes.
 25 A. Okay, right here.

27

1 Q. Okay. And then where the van would be.
 2 A. About right here.
 3 Q. Okay. And would you put an "R" on your
 4 vehicle to show "Ruby" and a "V" on the other one
 5 showing "van," okay?
 6 A. (Witness complying.)
 7 Q. Does that fairly and accurately represent
 8 where the car was -- your car was in relationship to
 9 the van?
 10 A. Yes.
 11 Q. Let me show that to the jury that you marked
 12 now. Okay. Again, the R over the box is against the
 13 wall, and in fact, in that picture there's a car
 14 there, isn't there? So was there any other people in
 15 front -- any other cars I guess is what I'm saying in
 16 front of the van or behind the van as it pulled up?
 17 A. No, sir.
 18 Q. I'm not asking this very well but what I'm
 19 trying to say is you couldn't go forward because a car
 20 was there. Was there any car in front of the van so
 21 they couldn't go forward?
 22 A. No, sir.
 23 Q. Okay. The last picture on that sequence I'm
 24 going to show you is 51. And does that show the side
 25 of building, too?

28

1 A. Yes, it does.
 2 Q. Okay. Thank you. The next series of
 3 photographs I have you've identified as the
 4 Whataburger and I believe your vehicle, and let's just
 5 start with 52. What is that a photograph of?
 6 A. It's the side of -- front side of
 7 Whataburger.
 8 Q. That would be -- would that be fair to say
 9 that's the opposite side of the Whataburger you were
 10 on?
 11 A. Yes, it is.
 12 Q. If somebody was walking in they would go in
 13 that store; correct?
 14 A. Correct.
 15 Q. 53, what is that a photograph of?
 16 A. That's my car.
 17 Q. What make and model, please?
 18 A. It's an '03 Thunderbird.
 19 Q. And 54, what does that show?
 20 A. The driver's side.
 21 Q. Is that the side that Mr. Ramirez approached
 22 you on?
 23 A. Yes, sir.
 24 Q. And then I got a sequence of photographs and
 25 we'll go with 55 and then 56. What is that -- 55

29

1 depict?
 2 A. The passenger side.
 3 Q. And 56?
 4 A. The passenger side as well.
 5 Q. Okay. Can you see the -- the scratch marks
 6 or whatever on the window on that picture very well?
 7 A. Not at all.
 8 Q. Where would he have been striking that
 9 window?
 10 A. Right in this area.
 11 Q. Okay. I'm going to show you two more
 12 photographs, 57 and 58. What does 57 depict?
 13 A. That's the passenger side.
 14 Q. And the next one?
 15 A. That's the same thing, passenger side.
 16 Q. Okay. What I'm going to ask you to do now is
 17 --
 18 MR. SKURKA: This is number what?
 19 Q. (BY MR. SKURKA) Okay, looking at 56 again,
 20 again, you've already indicated -- you've indicated
 21 where -- I don't know what you call it, scratch marks
 22 made by the blade are, but would you kind of circle
 23 the area on that, like just kind of how you pointed
 24 here but let's just make a mark on the picture itself
 25 where the marks from the window were.

30

1 A. (Indicating.)
 2 Q. Okay. So essentially right around the middle
 3 of the window?
 4 A. Yes, sir.
 5 Q. So the marking you now put on 56 with the
 6 little box I guess would be the area where he was
 7 poking the window at?
 8 A. Yes, sir.
 9 Q. Can you tell me his demeanor when he was at
 10 that side of the window, how he was acting?
 11 A. Just aggressively trying to break the window,
 12 I thought.
 13 Q. How long was he at that side of the window
 14 before you were able to reverse?
 15 A. About two minutes, three minutes. It seemed
 16 like forever.
 17 Q. Would you go back to one of the aerial
 18 photographs on the drive-through. I'm going to ask
 19 you -- I'm going to show you -- have you show jury
 20 where you reversed to and where the van left after you
 21 went but I want to get the picture of the aerial
 22 photograph up there, first.
 23 Okay. You indicated earlier where your car
 24 would be about here and the van would be about here.
 25 What did you do when you said reverse, where did you

31

1 go to?
 2 A. I -- to the menu board. I reversed basically
 3 to the menu board.
 4 Q. Why?
 5 A. So that I could get away from the knife.
 6 Q. Why did you stop at the menu board?
 7 A. It was far enough away. They -- I saw them
 8 walking into the van.
 9 Q. Can you show us on the diagram or the map
 10 where they went?
 11 A. They exited and then went down Texan Trail.
 12 Q. So, after you reversed this way, they didn't
 13 reverse with you, they went forward?
 14 A. Yes, they went forward.
 15 Q. And pulled out this way?
 16 A. And pulled out and went down Texan Trail.
 17 Q. So the last you saw them was going down Texan
 18 Trail?
 19 A. Yes, sir.
 20 Q. And how many people did you see all together
 21 during whole incident?
 22 A. Two.
 23 Q. Did you tell the police what you had seen?
 24 A. Yes, sir.
 25 Q. When the police got there, did you give them

32

1 -- were you able to give them a description of the van
 2 or the people?
 3 A. I believe so.
 4 Q. Okay. And -- thank you, Ms. Hinojosa.
 5 That's all questions I have.
 6 THE COURT: All right.
 7 MR. SKURKA: I pass the witness.
 8 THE COURT: Cross?
 9 MR. GARZA: May I proceed, Your Honor?
 10 THE COURT: Yes.
 11 MR. GARZA: Thank you.
 12 CROSS-EXAMINATION
 13 BY MR. GARZA:
 14 Q. Ms. Hinojosa, I'm Ed Garza. I think I
 15 previously introduced myself to you at another
 16 proceeding. Good morning.
 17 A. Good morning.
 18 Q. I just want to ask you a few questions, if I
 19 can. On that particular evening, do you recall what
 20 you ordered for your -- for your lunch or for your
 21 supper that night?
 22 A. Yes, sir.
 23 Q. What did you order?
 24 A. A No. 7.
 25 Q. Great. All right, the -- the lady that

33

1 approached you first in that car, were you ever asked
 2 to later during the investigation of the case to
 3 identify that person, and what I'm asking is were you
 4 ever shown a lineup that night that included that
 5 lady's picture in it?
 6 A. I don't recall.
 7 Q. You don't remember?
 8 A. No.
 9 Q. Now, you were shown a photo lineup of my
 10 client; is that correct?
 11 A. Yes, sir.
 12 Q. Do you recall if that was the only one that
 13 was ever shown to you?
 14 A. Yes, sir.
 15 Q. So that helps eliminate whether or not you
 16 were shown another one of the other person --
 17 A. Right.
 18 Q. -- is that correct?
 19 A. Yes.
 20 Q. So for all intents and purposes, I think we
 21 can factually establish the fact that nobody ever made
 22 any effort to have you identify the Hispanic female?
 23 A. I don't recall that.
 24 Q. Okay. Do you remember what she might have
 25 been wearing that night?

34

1 A. No, sir.
 2 Q. Any other features about her that you
 3 described to the police that night?
 4 A. Just remember the long hair. She was thin
 5 built.
 6 Q. Okay. Do you remember the color of the hair?
 7 A. Not at this point, no.
 8 Q. Anything at all about her facial features,
 9 acne --
 10 A. No, sir.
 11 Q. -- scars, anything like that?
 12 A. No, sir.
 13 Q. Why would that be, it just happened too fast?
 14 A. She was on the passenger side and just -- I
 15 dismissed her with "go inside" type thing, I didn't
 16 really study her.
 17 Q. You didn't pay that much attention to her?
 18 A. Correct.
 19 Q. Were you able to pay more attention to our
 20 client for a longer period of time compared to her?
 21 A. Yes, sir.
 22 Q. Do you recall what he was wearing?
 23 A. No, I don't, a T-shirt, I believe.
 24 Q. Do you recall anything significant about the
 25 T-shirt?

35

1 A. No, sir.
 2 Q. Was it -- was it blood stained, was it
 3 splotched, have any spilled chocolate on it, anything
 4 like that at all?
 5 A. No.
 6 Q. Nothing? Anything at all about his hands or
 7 arms that he appeared to have any wounds or bleeding
 8 from any part of his limbs or his hands or anything
 9 like that?
 10 A. No, sir.
 11 Q. The knife, what do you remember about the
 12 knife? Was it bloody, did it look rusty, did it look
 13 damaged, did it look anything?
 14 A. No.
 15 Q. Nothing like that?
 16 A. No, sir.
 17 Q. You don't remember anything like that?
 18 A. I didn't see anything.
 19 Q. Okay. Do you know if your car was ever
 20 searched for -- if any of I.D. technician people that
 21 came out to the scene looked for any bloodstains or
 22 anything like that inside or outside your car?
 23 A. I'm not sure what they did. I -- my
 24 supervisor picked me up and I went back to work and
 25 left my car there so I'm not sure what they did.

36

1 Q. Okay. Do you -- when did you get your car
 2 back?
 3 A. About two hours later, two or three hours
 4 later. I was asked to go downtown.
 5 Q. To pick it up --
 6 A. Yes, sir.
 7 Q. -- or to obtain --
 8 A. Well, to -- for questioning.
 9 Q. Okay.
 10 A. Further questioning.
 11 Q. Is it -- and did you provide them with a
 12 written statement at that time --
 13 A. Yes, sir, I did.
 14 Q. -- of what occurred? When you backed the car
 15 up and the van left the Whataburger, where did you
 16 encounter the police? Did you call the police
 17 yourself?
 18 A. I called the police as I was pulling up to
 19 pick-up window.
 20 Q. Okay. So after they left you pulled up to
 21 the window?
 22 A. Yes, sir.
 23 Q. And you called them on your cell phone, I
 24 assume?
 25 A. Yes, sir.

37

1 Q. Where did they meet up with you?
 2 A. On the opposite side.
 3 Q. Can you point?
 4 A. On the opposite side. I pulled around to the
 5 other parking area.
 6 Q. Okay. And I noticed in the photographs your
 7 car is backed up. Did you park it that way or -- or
 8 did they do that?
 9 A. I parked it.
 10 Q. You parked it?
 11 A. Yes, sir.
 12 Q. Okay. And that's where you met up with
 13 the -- I guess with Officer Kinane?
 14 A. Yes, sir.
 15 Q. Okay. And you gave him the initial
 16 information of what occurred that night --
 17 A. Yes, I did.
 18 Q. -- is that correct?
 19 A. Yes.
 20 Q. Thank you, ma'am.
 21 MR. GARZA: I'll pass the witness.
 22 THE COURT: Anything else?
 23 MR. SKURKA: No, Your Honor.
 24 THE COURT: All right. You may stand
 25 down.

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1 THE WITNESS: Thank you.

2 THE COURT: Please do not discuss your

3 testimony with anyone while the trial is going on.

4 MR. SKURKA: May she be excused, Your

5 Honor?

6 THE COURT: She may.

7 MR. SKURKA: Thank you.

8 THE COURT: All right, call your next

9 witness. Thank you.

10 MR. SKURKA: We call Officer Gray. I'm

11 sorry, Judge, I meant to call Officer Tanya Flores.

12 THE COURT: All right.

13 (Oath administered.)

14 THE COURT: All right, you may proceed.

15 MR. SKURKA: One second, Your Honor.

16 THE COURT: Okay.

17 (Pause in proceedings.)

18 TANYA FLORES OELSCHLEGEL,

19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. SKURKA:

22 Q. Please introduce yourself to the --

23 MR. GARZA: Your Honor, I'm sorry, before

24 we proceed can we have a hearing outside the presence

25 of the jury before this witness testifies, Your Honor?

39

1 THE COURT: Yes. All right, let's take a

2 little break, ladies and gentlemen. All rise for the

3 jury.

4 (Jury exits courtroom.)

5 THE COURT: All right, be seated, please.

6 Yes, sir?

7 MR. GARZA: I'm just a little

8 concerned in that as I was reading the -- got

9 reacquainted with Officer Flores' report, there's some

10 mention of another extraneous matter involving the van

11 having been reported stolen and I just want to make

12 sure that we weren't going to get into that and don't

13 think we've opened the door to it, but that's one of

14 the matters the Court has not ruled on.

15 MR. SKURKA: No, I wasn't going to go

16 into that. I think I told you not to mention that;

17 correct?

18 THE WITNESS: Right, that's correct.

19 MR. GARZA: Okay, well, I just wanted to

20 make sure.

21 THE COURT: Okay. Well, I guess we've

22 already put the jury in

23 MR. GARZA: I'm sorry.

24 THE COURT: That's fine.

25 MR. GARZA: I just didn't want it to

40

1 happen, Judge.

2 THE COURT: No problem, but we've already

3 put them in the box so let's give them a little break,

4 they'll probably use the facilities, so we'll take a

5 little break.

6 (Short recess.)

7 (Jury enters courtroom.)

8 THE COURT: All right, be seated, please.

9 All right, Mr. Skurka, you may proceed.

10 Q. (By MR. SKURKA) Please state your full name

11 for the the record.

12 A. Officer Tanya Flores Oelschlegel.

13 Q. How are you currently employed?

14 A. I'm currently an investigator with the

15 criminal investigation division with the Corpus

16 Christi Police Department.

17 Q. How long have you been with the Corpus

18 Christi Police Department?

19 A. Almost 11 years.

20 Q. Can you tell us what divisions or areas of

21 the police department you worked at from the beginning

22 to the current time. Kind of tell me your different

23 assignments.

24 A. Sure. Of course, I initially began with the

25 Police Academy, which is about six to seven months

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1 when you start, after that in -- in the patrol, and

2 worked in the patrol division for about seven years,

3 and the last year, year or so, I was a field training

4 officer, and then I got transferred over to the

5 criminal investigation division and the first two

6 years I primarily worked investigations with the

7 domestic crimes division, and I'm currently working

8 crimes against children for the last two years.

9 Q. You said you were a field training officer.

10 Can you tell them exactly what that means, please?

11 A. A field training officer, when cadets

12 graduate the academy and begin their training in the

13 field as a patrol officer they're assigned to

14 different field training officers each month and we

15 grade them and train them throughout the month so they

16 can transition from what they learn in the academy to

17 what they -- I guess to put it to field work.

18 Q. Would it be fair to say that one of the new

19 recruits are paired with an older, more experienced

20 officer to help them learn the ropes?

21 A. Yes, that's correct.

22 Q. And how long were you a field training

23 officer all together, please?

24 A. Approximately a year.

25 Q. And you've been in criminal investigation

42

1 division for the last four years?

2 A. It will be four years in January.

3 Q. I'm going to direct your attention back to
4 July 19, 2004. What were you assigned to at that
5 time?

6 A. I was a patrol officer at the time and
7 working the graveyard shift in the downtown area.

8 Q. What was your usual areas? I'm sorry, usual
9 hours to work?

10 A. I -- at that time I believe I was on case
11 shift which I worked 5:30 p.m. to 3:30 a.m. on
12 Thursday evenings; and Friday, Saturday, and Sunday I
13 worked about 9 p.m. to 7 a.m.

14 Q. And what was your general area of patrol?

15 A. I worked what we call the Delta Division. We
16 work out of the main station. That covers -- or it
17 did cover, I think they changed it slightly since I
18 was in patrol, the Molina area through I guess the
19 downtown area, all of north side out to about
20 Navigation and it crosses all the way over to the
21 Molina area and to Horne, Horne and Ayers back
22 downtown.

23 Q. So generally that large of an area?

24 A. (Nods head.)

25 Q. At the time of July 19, 2004, were you

43

1 familiar with that area of patrol?

2 A. Yes.

3 Q. How long had you been patrolling that area?

4 A. I had been working that area since 1998.

5 Q. So about --

6 A. About -- almost six years.

7 Q. -- six years?

8 A. Uh-huh.

9 Q. In the late evening hours of July 19, 2004,
10 did you become aware while you were on patrol of an
11 incident or crime that occurred at the Times Market at
12 1902 Baldwin?

13 A. Yes, I did.

14 Q. Can you tell the jury how you first heard
15 about that incident?

16 A. I heard officers being dispatched to a
17 robbery with injuries. Normally -- it sounded like
18 the injuries were pretty bad, maybe fatal at the
19 point. Normally in that type of situation officers
20 that are available even if they're not dispatched you
21 tend to kind of go and case the area and I guess to
22 parallel the area to see if you come across any of the
23 suspects because there was a suspect -- there were
24 suspect descriptions given at the time.

25 Q. Did you hear -- I'm assuming you heard about

44

1 it on the radio; correct?

2 A. Yes.

3 Q. And maybe -- although I don't know how the
4 radio works from the police department but what is
5 actually broadcast on the radio that would help other
6 officers arriving at the scene?

7 A. For -- for robberies they using do a beep
8 tone which gets your attention. It's usually a
9 three-tone beep and they advice that there was a
10 robbery, aggravated robbery that had just occurred and
11 they gave descriptions of a maroon van being involved,
12 two females and a male, and they gave the description
13 and the direction that they left, and the -- the
14 different -- that there's neighborhood streets in the
15 area so they were already -- when I got there I
16 already saw that the scene was secured so I started
17 checking the neighborhood areas, the small streets
18 leading away from that direction.

19 Q. And let me go back. You said something about
20 the color of the vehicle. And how many vehicles were
21 there that you heard about on the BOLO?

22 A. On the BOLO I believe there was -- I believe
23 they said there were two maroon vans at the time being
24 involved.

25 Q. Okay. At the Times Market?

45

1 A. Right.

2 Q. And the number of suspects and the
3 description of suspects were -- you knew at that time
4 were what?

5 A. A male and possibly two females.

6 Q. Did you have any more information besides
7 that?

8 A. They --

9 Q. And I'm talking about description of the
10 people.

11 A. Oh, I know it was a Hispanic male, possibly
12 wearing a gray shirt; and a female, possibly wearing a
13 white shirt. And they said Hispanic females also.

14 Q. Okay. So you base -- have a basic
15 description of people and the vehicle; correct?

16 A. Correct.

17 Q. Is that unusual when you get the initial BOLO
18 call?

19 A. Is that usual -- unusual?

20 Q. Is it unusual to have just that little
21 information at the time?

22 A. No, no, that's -- that's pretty much our
23 basic that we get, is car and somewhat of a physical
24 person description.

25 Q. So you headed over toward the Times Market at

46

1 1902 Baldwin; correct?

2 A. That's correct.

3 Q. But other officers were at the scene?

4 A. Yes.

5 Q. So what did you do?

6 A. I turned off into the -- there's residential

7 neighborhoods directly across Baldwin from there so I

8 turned into those streets there and just as I did they

9 put out another call for aggravated robbery at the

10 Whataburger just down the road at 2018 South Staples.

11 Q. At what?

12 A. 2018 South Staples.

13 Q. 2018 South Staples?

14 A. Uh-huh.

15 Q. Now, what time did you get the call to go to

16 the robbery at the Whataburger at 2018 Staples?

17 A. Approximately 11:30 that evening.

18 Q. Around 11:30 a.m. -- p.m., I'm sorry.

19 A. P.M.

20 Q. How much time passed between the robbery that

21 took place that you were I guess initially going by at

22 the Times Market on Baldwin and this Whataburger one?

23 A. I don't know what time that one actually

24 occurred but I know when I arrived at the scene I

25 pulled up onto Baldwin and I saw the Times Market and

47

1 they were already taping off the area, the other

2 officers, so I turned into the neighborhood and just

3 as I turned in is when they dispatched that one so I

4 was right down the road, maybe, what, two, three

5 blocks away maybe.

6 Q. But my question is how much time passed

7 between the initial call out for the Times Market to

8 the second one where you got called out? I mean, how

9 many minutes, if you recall?

10 A. I couldn't say the exact minutes. I

11 wasn't actually dispatched to the original, I just

12 responded on my own so that wasn't something that was

13 documented on time specifically, but I would say

14 within five to ten minutes I would say.

15 Q. The -- so you get this call to go to 2018

16 Staples. How far is it from where you were at in the

17 area of Times Market?

18 A. I would say --

19 Q. Either blocks or miles?

20 A. It's -- I would say it's less than a mile,

21 half a mile to a mile.

22 Q. What did you do?

23 A. I responded to the Whataburger there at

24 Staples, the one near the intersection at Baldwin.

25 When I pulled up, I saw a maroon van parked in the --

48

1 next to the dumpster in a little -- I guess it's a

2 parking area just behind the drive-through, on the

3 left of the drive-through, and the victim was further

4 around the drive-through near the windows but not in

5 the lane of traffic. I guess they -- she moved out of

6 the way in case there were other customers and I made

7 contact with her there.

8 Q. Did you notice anybody by the van when you

9 arrived?

10 A. No, no, myself and the other officers showed

11 up and that's, of course, the first thing we do is

12 clear the van to make sure we don't have any suspects

13 still on the scene.

14 Q. So did -- you didn't know if this maroon van

15 was involved or not, correct --

16 A. It matched the description --

17 Q. -- at that time?

18 A. It matched the description, so, of course, I

19 mean, it's an officer safety issue so the first thing

20 we did was check them because that was on the side

21 that I approached first and it wasn't until I went

22 around the rest of the drive-through before I ran into

23 the victim there.

24 Q. Now, did you know anything going over to this

25 Whataburger at 2018 Staples, any other description or

49

1 what had happened from your police dispatcher?

2 A. At that point I had found out that the victim

3 at the Times Market had passed away, that it was now a

4 homicide. I -- while I was there, another robbery

5 was -- came out over the radio with the same

6 description as well, down the road.

7 Q. Okay. We'll talk about that in a minute.

8 Let's just take them step by step. We're back at the

9 scene where you see the van. You check the van and no

10 one is in there. What do you do next?

11 A. I made contact with the victim to see if she

12 needed any emergency assistance, medically, and she --

13 she declined any medical assistance. She did have a

14 cut on her right finger and she explained to me what

15 had occurred.

16 Q. Had you -- when you first arrived, you said

17 that her car was over by the drive-through, by the

18 menu board; is that correct?

19 A. Yes.

20 Q. Do you remember what kind of car it was or

21 color or make?

22 A. It was a silver Pontiac Grand Am.

23 Q. Can you tell the jury the victim's reaction,

24 attitude or demeanor when you came up upon her, how

25 was she acting?

50

1 A. She was crying, she was extremely terrified,
2 she had a toddler in the car with her, about a year
3 and a half, not quite two years old that she was
4 carrying and just holding, she didn't want to let go
5 of him. She was somewhat relieved when we arrived
6 there but she was still frantic, looking around,
7 making sure that they weren't coming back.

8 Q. Were you able to talk to her, get any other
9 kind of description that would aid in the
10 investigation?

11 A. Yes, she explained to me what had occurred.
12 She advised she was at the drive-through with the --
13 where the intercom is at when she noticed -- there's a
14 kind of an island with bushes where the -- she noticed
15 the maroon van pull up and another maroon van similar
16 looking, a custom-type van, pulled up behind her, and
17 she heard like a commotion back there and all of a
18 sudden one of the Hispanic females came up to her car.
19 At the time, she only saw one, came up to her vehicle
20 and was asking her if she had a phone and saying she
21 was hurt and she needed a phone, and she was leery
22 about the situation and she said "No, but you might
23 check inside, they probably have one inside the
24 Whataburger."

25 And she wouldn't leave so she started to roll

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1 her window up, and as she did that, the girl reached
2 into the car at her and just then a Hispanic male
3 reached -- came running up with a knife, grabbed her
4 by the throat, put the knife to her and took the money
5 from her. And the description she gave was a Hispanic
6 male, about 20 to 30 years old, brown hair and brown
7 eyes, about 5-8, maybe 150, wearing a she believed --
8 what she believed was a gray shirt, and she said that
9 she -- at the time she saw one Hispanic female, the
10 one that approached her. She didn't know if there was
11 anybody else in the van besides the two, and she
12 described her as a Hispanic female about the same age
13 with some acne around her mouth and wearing a white
14 type of shirt with some blood on it and her hair was
15 either pulled up on a bun or a pony tail was the
16 description she gave.

17 Q. Was she able to recite these facts and the
18 description even though she was upset?

19 A. Yes.

20 Q. Were you able to visit with her and get that
21 information pretty much right away?

22 A. Yes, and as soon as I got that information it
23 was relayed over the radio to let other officers in
24 the area know for the -- and she also said that the
25 van -- they jumped in the van and -- they left the one

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1 van there and they jumped into the van that was
2 parked -- stopped behind her and they left driving
3 southbound on Staples which is back towards Texan
4 Trail.

5 Q. I'm not sure I followed you about the vans.
6 You said they left on van behind. Is that the one
7 parked behind the store or the one parked behind her?

8 A. The one that was parked behind the store is
9 the one that remained there and was still there when I
10 arrived. They all left in the van that was stopped
11 behind her.

12 Q. And they left toward Staples Street and down
13 towards Texan Trail?

14 A. Yes.

15 Q. I have a -- photographs to show you. I'm
16 going to look at 28, it's already been admitted into
17 evidence.

18 What does that depict, please?

19 A. This is the Whataburger at 2018 South
20 Staples.

21 Q. Would that be fair to say that's kind of the
22 front of the store --

23 A. Yes.

24 Q. -- facing Staples?

25 A. This is Staples that runs along here, this is

53

1 the entrance I pulled into on this side and you can't
2 see it.

3 Q. Ma'am, there's a laser pointer in front of
4 you.

5 A. Oh, thank you.

6 Q. Maybe that will help you.

7 A. Okay. Over here is an entrance. That's
8 entrance I entered through. The initial van that was
9 parked and left was parked right in this area here.
10 She was at the first intercom here when it happened.
11 When I made contact with her, she had already pulled
12 up to this area here. The van that was initially
13 parked here is the one that remained. The van that
14 pulled up behind her is the -- is the van that the
15 suspects fled in.

16 Q. I'm going to show you a picture, I think it's
17 the back part of that Whataburger, and this is State's
18 Exhibit 30.

19 MR. SKURKA: Can you get a close-up of
20 that, please?

21 Q. (BY MR. SKURKA) Is that the same
22 photograph -- I'm sorry, the same scene but at the
23 back of the store?

24 A. Yes, yes, it is.

25 Q. Maybe that could show us a little better.

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1 A. Right, and this was the area where the one
2 van was parked.

3 Q. And for the record, you're pointing
4 right behind the menu board?

5 A. Right, this is the menu board she was at and
6 this is where the one van was parked and while the
7 other one pulled up behind her.

8 Q. Okay. Let me have the photograph. I'm going
9 to have you just draw in a little box to show where
10 the van is -- was on this picture so the jury knows
11 exactly where it's found. Just draw a little
12 rectangle and put a V inside it, you know, to show
13 where the van was at.

14 A. Okay.

15 Q. Was the van parked pointed in or like pointed
16 out?

17 A. It was pointed -- the front end was pointed
18 in here.

19 Q. Okay. So that would -- what you're
20 indicating would be front part of the van.

21 A. That's correct.

22 Q. When you made contact with the young woman
23 you said that -- you mentioned earlier that she had a
24 cut on her hand or she had a small injury on her hand.
25 Can you tell us about that and describe it in some

55

1 detail, please.

2 A. Yes, she explained when the -- when the male
3 male suspect reached in and grabbed her by the throat
4 and held the knife to her, she -- she remembered that
5 it was -- he grabbed her with the right hand by the
6 throat and he had the knife in his left hand and her
7 reaction was to stop or I guess to block him and she
8 ended up with a one-inch laceration cut to her right
9 index finger.

10 Q. But you said she didn't need medical
11 attention, like go to the hospital or anything?

12 A. Right, she declined any medical attention at
13 the time.

14 Q. And did -- was she able to explain to you how
15 she had received that cut?

16 A. Yes.

17 Q. How?

18 A. She -- when the male suspect reached into her
19 window and grabbed her by the throat, he put the -- a
20 knife to her face and demanded money and she put her
21 hands up to I guess it was a reaction to deflect or,
22 you know, to make sure he didn't I guess try to cut
23 her, and that's when she got cut on her hand by the
24 knife.

25 Q. After -- did she tell you whether or not they

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1 had gotten anything from her during the robbery?

2 A. She said that she had her red purse on the
3 seat so when she they did that she grabbed it right
4 away and just gave it to them so they could leave.

5 Q. Was the child okay that was in the car, too?

6 A. The child you could see was visibly upset,
7 but physically he was not injured in any manner.

8 Q. Based on the information she gave you about
9 the vans, what did you do with that information?

10 A. I -- I relayed the information over the radio
11 to let the other officers in the area know the
12 description, if there was any. I don't know if it
13 there was any added, there might have been slight
14 additional information from the prior robbery.

15 Q. Well, that was my question. Any information
16 you have for this witness match the information that
17 come out of the other BOLO call at the other scene?

18 A. Yes, it was very similar.

19 Q. And we talked about the knife but was she
20 able to describe the knife to you in any detail,
21 whether it was a folding knife, fixed blade, any other
22 description of the knife?

23 A. She just said it was a large knife. She
24 described it as a large knife.

25 Q. Okay.

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1 MR. SKURKA: May I approach, Your Honor.

2 THE COURT: Yes.

3 Q. (BY MR. SKURKA) I have one more document or
4 photograph to show you marked State's Exhibit 59.
5 Would you look at that and tell me if you can
6 recognize that, please.

7 A. Yes, this is the maroon Dodge van that was
8 left parked in this parking space here.

9 Q. Is that a photograph of the maroon van that
10 you found located behind the Whataburger at that
11 address on Staples Street?

12 A. Yes, it is.

13 Q. Now, the photographs of the van is not taken
14 at that Whataburger; correct?

15 A. No.

16 Q. Why would that be?

17 A. We -- because we had multiple scenes now. We
18 only had -- we usually only have two crime scene
19 investigators that are on the scene at the time and
20 they were tied up so they -- they showed up and we had
21 the van impounded to our safe lot garage where they
22 later processed it.

23 Q. So this is a photograph of the van located
24 where at?

25 A. At the -- I believe that's the one on Port.

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1 I don't know if that's the one -- we have one on East
2 Port and we have one at the Police Academy.

3 Q. The bottom line is, is it at the police --

4 A. It's at one of our police garages.

5 Q. Thank you. But that is the same van?

6 A. Yes.

7 Q. Thank you.

8 MR. SKURKA: I'll hand 59 to Defense
9 Counsel and offer into evidence.

10 MR. GARZA: No objection, Your Honor.

11 THE COURT: It's admitted.

12 MR. SKURKA: May I publish it to the
13 jury, Your Honor?

14 THE COURT: You may.

15 Q. (BY MR. SKURKA) Do you know what make or
16 model that van was?

17 A. A Dodge.

18 Q. It was a Dodge van?

19 A. Yes.

20 Q. And what color was it?

21 A. Maroon, and it had -- I think it was a little
22 bit of a silver or gold type of stripes on it.

23 Q. It just doesn't show up on that picture very
24 well, right?

25 A. No.

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1 Q. And you're not the one that processed it for
2 fingerprints or anything like that, that would be one
3 of the I.D. techs; is that correct?

4 A. Right, right, one of our crime scene
5 investigators.

6 Q. Did you do anything else at the scene that
7 night at that Whataburger?

8 A. When the description was given out we were
9 standing by for a -- to see what the crime scene
10 technicians were going to do and just then there was
11 -- I heard there was another robbery that was put out
12 at the Whataburger at Texan Trail and Alameda area.

13 Q. What did you do?

14 A. Right when that was pulled up I noticed a
15 maroon van driving on Staples that matched the
16 description of the one that fled, and just as I saw
17 it, I saw one of our patrol officers behind it
18 attempting to pull it over and they got into a vehicle
19 pursuit. They -- it went on for a while and the
20 vehicle -- I guess they stopped over on north side in
21 some -- in a bush area, I'm not sure, I wasn't there,
22 but they were able to obtain the two female suspects
23 and they were brought back to the scene for our victim
24 to identify.

25 Q. So as you're working the robbery at the

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1 Staples Whataburger you hear on the radio about the
2 other one; correct?

3 A. That's correct.

4 Q. And so you know another maroon van is
5 involved?

6 A. Right.

7 Q. And you saw what you thought is that van
8 going down the street --

9 A. That's correct.

10 Q. -- before the police officers start getting
11 in pursuit of it?

12 A. That's correct.

13 Q. Now, were you part of that pursuit or was
14 that other officers?

15 A. No, no, I was now glued to the scene. I was
16 primary at the scene I was at so I -- I was not going
17 to leave it. Just as I saw it, there were officers
18 behind it about to pull it over just at the same time
19 that I saw it and I -- I know that the victim I think
20 pointed and said "Yeah, that looks like it, that looks
21 like the van," and --

22 Q. And that was right in front of the store on
23 Staples Street?

24 A. It was going -- yeah.

25 Q. What direction was it heading?

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1 A. We were a little further back. It was headed
2 back north now on Staples.

3 Q. Help us out --

4 A. Toward Six Points.

5 Q. -- which way was he going?

6 A. Towards Six Points.

7 Q. Towards Six Points. Okay. You said that
8 other officers affected the arrest of the two females.
9 Were they brought back to the Whataburger --

10 A. Yes, sir.

11 Q. -- that you were at?

12 A. Yes, they were.

13 Q. Did April Metting, the victim of that
14 Whataburger, identify either one of them?

15 A. Yes, she identified one of the females as
16 being the one that approached her, her name was
17 Christina. She was later identified as Christina
18 Chavez.

19 Q. And April Metting was able to identify her?

20 A. Yes.

21 Q. And you were present when that happened?

22 A. Yes, I was.

23 Q. That was not a photo lineup but more of a
24 show up --

25 A. Right.

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1 Q. -- at the scene?

2 A. Right, the Officer, I believe it was Officer

3 Ralph Vasquez I know were there and also Officer

4 Robert Chapa. I think they brought them in separate

5 vehicles and what they do is stand them up and, you

6 know, put the light on them so that she can identify

7 them.

8 Q. So this one in the photograph?

9 A. Not in the photo, live person, uh-huh.

10 Q. I think that's all questions I have, Officer

11 Flores. Thank you.

12 THE COURT: All right, cross?

13 MR. GARZA: May I proceed, Your Honor?

14 THE COURT: Yes.

15 CROSS-EXAMINATION

16 BY MR. GARZA:

17 Q. Officer Flores, good morning, my name is Ed

18 Garza.

19 A. Good morning.

20 Q. I represent John Henry Ramirez. All these

21 matters that you've testified to this morning to the

22 jury were things that were related to you by

23 Ms. Metting; is that correct?

24 A. Of what she told me, yes.

25 Q. What she told you?

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1 A. Other than myself seeing the van and seeing

2 the other van pass by.

3 Q. And as far as the acts, the committing of the

4 offense and all those, none of that was committed in

5 your presence --

6 A. No, sir.

7 Q. -- correct? Okay, so basically the only one

8 thing that you did physically observe was the

9 existence of that van parked there, or abandoned, or

10 whatever.

11 A. That, and her demeanor at the time, yes.

12 Q. And also what you-all might have thought was

13 the other van involved in any other robbery or being

14 chased down Staples Street --

15 A. That's correct.

16 Q. -- correct? But none of the suspects were

17 ever in your presence that you eyewitnessed or doing

18 anything --

19 A. No.

20 Q. -- correct?

21 A. No.

22 Q. All right. Thank you, ma'am.

23 MR. GARZA: I'll pass the witness.

24 THE COURT: All right, anything else, Mr.

25 Skurka?

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1 MR. SKURKA: No other questions, Judge.

2 THE COURT: All right. You may stand

3 down. Please don't discuss your testimony with anyone

4 while this trial is going on. Call your next witness.

5 MR. SKURKA: Officer Gray.

6 THE COURT: All right.

7 (Oath administered.)

8 THE COURT: You may proceed.

9

10 JAMES GRAY,

11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. SKURKA:

14 Q. Would you please introduce yourself to the

15 folks on our jury.

16 A. Lieutenant James Gray.

17 Q. How are you currently employed?

18 A. Police officer with the City of Corpus

19 Christi Police Department.

20 Q. How long have you been so employed?

21 A. It will be 12 years in January.

22 Q. Starting with how you -- starting with when

23 you started at the police department, can you tell the

24 jury some of your different assignments, what areas of

25 patrol -- I'm sorry, what areas of police

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1 department you've worked in up until present?

2 A. First two years of my career I worked in the

3 patrol division, worked on the south side of town,

4 Flour Bluff area. Then I was transferred to the JET

5 Gang Unit, worked there for roughly eight years and

6 came out of the JET Unit three different times for six

7 months to do the field training program, train

8 recruits, and then be -- tomorrow is the date I was --

9 two years ago I was promoted to lieutenant.

10 Q. What are your current duties as a lieutenant?

11 A. I'm assigned to the -- what we call the Bravo

12 District which is part of the south side of Corpus,

13 Flour Bluff area and the Island that I supervise.

14 Q. How many people do you supervise on a shift?

15 A. Two days eight and two days nine.

16 Q. Officer Gray, I'm going to direct your

17 attention back to July 19 of 2004. What part or

18 division were you working out at that time?

19 A. I was assigned to the gang unit, JET Team.

20 Q. Can you tell the jury essentially what the

21 the JET Unit does, what your duties were back then?

22 A. We -- it's as an intelligence gathering, we

23 contact gang members, document gang members. We make

24 all -- we would make all the hot calls which would be

25 major calls, stabbing, shootings, robberies,

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1 everything like that. We were -- we were mandated and
2 go to all those calls.

3 Q. Now, does a JET Unit have an area of patrol
4 or not?

5 A. We can cover -- we have the whole City of
6 Corpus Christi. Usually what it was, on certain
7 nights there would be -- depending on how many units
8 we had on we would be splitting between the north side
9 of town and Annaville or you work south side of town
10 and Flour Bluff area but if it was a hot call
11 everybody responded to assist a patrol.

12 Q. What's a hot call?

13 A. It would be, like I said, aggravated assault,
14 shootings, stabbings, robberies, any -- murders,
15 anything along that line.

16 Q. But does a JET Unit have a certain area of
17 patrol like between this street and this street and
18 this street and this street?

19 A. No, sir.

20 Q. Back on that day, where were -- what areas of
21 town were you at, and did you have occasion to hear a
22 call that was involving a robbery, homicide that took
23 place at 1902 Baldwin Street at a Times Market
24 convenience store?

25 A. Myself and my partner, Chris Crago, we were

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1 working the -- we were in the general downtown area,
2 basically this area of town where we're at right now,
3 the courthouse, downtown, north side and over to the
4 west side, we were working this area.

5 Q. When did you first get notified about this
6 major crime that took place?

7 A. It was put out over the radio and it didn't
8 come out as a homicide at first and then there was a
9 couple of robberies and we weren't -- initially they
10 weren't -- we didn't tie them all together..

11 Q. Okay, I didn't understand that last part.
12 What do you mean?

13 A. There was one call where a lot of officers
14 responded to where the gentleman was killed.

15 Q. Okay. Was that the Times Market?

16 A. That was the Times Market call. And then
17 there was two subsequent robberies at two different
18 Whataburgers. Since there was officers responding --
19 there was a large amount of officers responding to the
20 Times Market call, an officer already on the scene on
21 the first Whataburger call, we responded to the second
22 Whataburger call, hoping to try to find the suspect in
23 that call.

24 Q. Did you get information over your I guess
25 channel or radio that talked about possible suspects

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1 or possible suspect vehicles involved in any of these
2 three crimes?

3 A. Yeah, the robbery -- the robbery at the
4 Whataburger we had information that it was a van, it
5 was a male and females. The Times Market call, we
6 really didn't have any information on that at that
7 point. Like I said, we didn't even realize they were
8 tied together, but initially, what we were looking
9 for, it was a custom van with a male and two females
10 and there -- like I said, it was a bunch of radio
11 traffic. It was very busy at that point and they were
12 kind of almost frantic on the radio.

13 Q. About what time was this that you got
14 involved in all this?

15 A. I have to refer to my paperwork for that.

16 Q. Would your copy of your report refresh your
17 memory?

18 A. I have it with me, yes, sir.

19 Q. Okay.

20 A. It was a little after 10, 10 p.m. I have --
21 I actually have 2330 so that would be between 10:30 --
22 or, I'm sorry, 11:30.

23 Q. I thought you guys were better at military
24 time than we were.

25 (Laughter.)

69

1 A. I've been under the weather for the last
2 couple of days, excuse me.

3 Q. I'm sorry, I didn't realize you were sick.
4 But it was around 11:30.

5 A. Yeah, I'm sorry, it was 2330.

6 Q. So all this information going around on the
7 radio around 11:30 of the robbery, and would it be
8 fair to say all of them were kind of close in time to
9 each other?

10 A. Yes.

11 Q. You said something about piecing them
12 together. What did you mean?

13 A. Like I said, the -- both Whataburgers, they
14 were similar descriptions, vehicle descriptions, and
15 the Times Market we had a little -- initially there
16 was a little -- the suspect description on the radio
17 so -- and there was a lot of officers there so we
18 didn't even -- we would get in the way over there, and
19 the other stuff, the -- the Whataburger robberies were
20 basically in progress so that was the logical choice
21 for me and my partner to try to respond to that.

22 Q. Now, you said the second Whataburger
23 robberies where you responded. Which one was that,
24 which Whataburger?

25 A. That was the one on Texan and Alameda.

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1 Q. Texan Trail and Alameda?

2 A. That's correct.

3 Q. And you said that earlier -- earlier you said
4 that it was downtown so which way did you go, what
5 route did you take to get down to the Whataburger at
6 Texan Trail and Alameda?

7 A. Staples.

8 Q. As you're driving down Staples toward the
9 Whataburger at Texan Trail and Alameda did you happen
10 to come across anything that matched the suspect
11 vehicle?

12 A. Yes.

13 Q. Can you tell the jury what happened?

14 A. Like I said, we were going southbound on
15 Staples. We cross paths with a -- coming to us you
16 could tell headlights, you could tell on a van, a car,
17 a truck or whatever, and we were looking for a van so
18 any van that crossed we put -- on the JET cars there's
19 spotlights on both sides of the units so we line up
20 everything we see, just, you know, looking, and we
21 crossed paths with this van, matched the general
22 description, male guy and a female up front we could
23 tell so we did a U-turn to attempt to catch up to the
24 vehicle and initiate a traffic stop.

25 Q. Tell me what you mean when you say "cross

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1 paths."

2 A. We were going southbound, they were going
3 northbound on Staples Street.

4 Q. Did you have occasion to shine the spotlight
5 on the van or identify it?

6 A. Yes.

7 Q. Was it a red van?

8 A. Yes.

9 Q. A reddish or maroon van?

10 A. Yes.

11 Q. Did it match the description?

12 A. Yes.

13 Q. Were you able to see the driver of the van at
14 that time as you're going face to face?

15 A. Yes.

16 Q. Is the driver of that van in the courtroom
17 today?

18 A. Yes, he is.

19 Q. Can you point to him and describe something
20 he's wearing?

21 A. Wearing a purple shirt sitting right over
22 there.

23 MR. SKURKA: Your Honor, may the record
24 reflect the witness has identified the Defendant?

25 THE COURT: It will so reflect.

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1 Q. (By MR. SKURKA) So you got to see him as
2 you're I guess face to face almost?

3 A. Yes.

4 Q. After you saw and recognized this as the
5 possible suspect and a possible suspect vehicle, you
6 said you made a U-turn. Then what did you do?

7 A. We turned on our lights and attempted to make
8 or conduct a traffic stop.

9 Q. How were you going to do that and where was
10 that taking place?

11 A. It was on Staples right around Buckaroos is
12 where -- as a reference point is what I put in my
13 report. It's one of the cross streets on Staples.

14 Q. What happened as you went and you and your
15 partner turned around and made the U-turn and came
16 after the car? I'm sorry, before I get to that, as
17 the car was going northbound and you were going
18 southbound --

19 A. That's correct.

20 Q. -- was it traveling a high rate of speed or
21 normal rate of speed?

22 A. It was going basically with the flow of
23 traffic, he wasn't going that fast. We did the
24 U-turn, we were able to catch up pretty quick, you
25 know, the regular stuff, put out the license plate and

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1 the vehicle continued for a little bit and then it
2 pulled over.

3 Q. The vehicle pulled over and stopped?

4 A. Briefly, yes.

5 Q. Then what happened?

6 A. I exited the -- the marked unit with a
7 shotgun and as I came around and opened the door of
8 the patrol unit the vehicle took off again.

9 Q. Now, were you on the driver's side or the
10 passenger?

11 A. I was on the passenger side.

12 Q. So how long was the vehicle stopped
13 altogether when you were getting out of the car, your
14 car?

15 A. A couple of seconds, just -- just literally
16 just long enough for me to open the door and hop out
17 with a -- pull a shotgun out and step around the open
18 door. Excuse me.

19 MR. SKURKA: You can move that back away
20 from you a little bit.

21 Q. (BY MR. SKURKA) So you were actually all the
22 way out of the car and around the door going toward
23 the front of your vehicle?

24 A. That's correct.

25 Q. Have you had cars like that take off before?

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1 A. That's pretty regular. That's a pretty
2 regular thing. That's how most pursuits start.

3 Q. So what happened then after the van takes off?

4 A. Get back in the unit and we take off after it
5 and starting putting out the description, direction
6 and --

7 Q. Tell the jury where the van went and how fast
8 or slow it was going.

9 A. I don't remember the exact speeds but it
10 was -- like I said, initially the vehicle was
11 traveling basically with the flow of traffic on
12 Staples and then we -- it turned on to Brownlee and it
13 accelerated hard, it was going -- to the point it was
14 going -- it was going very -- it wasn't safe. We were
15 traveling excess of 50, 60 miles an hour and 70 miles
16 an hour residential area.

17 We crossed -- Brownlee crosses Ayers. Going
18 northbound there's a full traffic light there. When I
19 say full traffic light, regular cycles to the red,
20 yellow, green. They continued north. There was a
21 bunch of residential area and the next major
22 intersection is Agnes. There's a flashing red and a
23 stop sign. At that point we're maintaining with the
24 vehicle at that point and they didn't even slow down
25 for that.

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1 Q. Didn't slow down for what?

2 A. The red -- the flashing red and the stop sign
3 on Agnes Street. Through all our guidelines with
4 pursuits and liability and everything else we have to
5 be a lot more careful than somebody running from us.
6 We had to clear the intersection. My partner made a
7 good -- you know, you're anxious, you want to catch
8 bad guy. My partner made the right decision, he
9 stopped, cleared the intersection which when you clear
10 an intersection you look all the way, make sure it's
11 clear and then you take off again.

12 At that time the vehicle got a little
13 distance on us, and you got a short block right there
14 and then you're on Laredo, which is -- there's not a
15 flashing light but there's a stop sign, and on your
16 right traffic is going westbound and on your -- you're
17 right on the corner and there's a blind corner facing
18 -- there's a building right against the sidewalk so we
19 had to stop, come to a complete stop again right here.
20 When the van just blew both those intersections we had
21 to stop and clear the intersections.

22 Q. The van did what?

23 A. It went straight through without slowing
24 down, traveling at a high rate of speed. So at the
25 point of Agnes and Laredo progressively we lost

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1 distance on the vehicle we were pursuing. So, we
2 continued northbound, Brownlee runs into the -- the
3 access -- basically merges into the access and drops
4 down and crosses Leopard Street. And when we came up
5 on the hump as we were dropping down where you can
6 actually physically see Leopard Street in front of
7 you, the van was already going underneath 37 so it had
8 gained a significant amount of ground on us.

9 Q. Give us an idea, an estimate how far in front
10 of it was he, like by a mile or blocks or what?

11 A. When you start thinking about distance and
12 everything, it's probably two -- a couple of blocks at
13 that point cause when you come over the top and -- you
14 come over the top of that -- the hump where you
15 physically have to drive. I'm sure if you're from
16 Corpus you realize where you get off the exit to

17 Crosstown 286 northbound and you merge and then with
18 the access road then it drops down to Leopard, if you
19 can visualize that.

20 Right where we were coming down over that
21 hump you can physically under the freeway at that
22 point than the van was going underneath the freeway
23 and went into the north side of town so we're a couple
24 of blocks at that point.

25 Q. So you're losing sight of it because you're

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1 falling behind. Where is the last time you see the
2 van?

3 A. It was taking a right on I think it was
4 Winnebago, yeah, and that's -- yeah, on Winnebago, and
5 that's the last time we saw it. We put as much
6 information out as we could. There obviously a bunch
7 of more units responding to the area and basically as
8 many free units as we had cause there were people
9 coming from the south side of town, other districts.
10 We basically cut all the exits off to the north side
11 of town.

12 Q. Did you ever find the van?

13 A. No, I did not.

14 Q. Did other officers find the van?

15 A. Yes, they did.

16 Q. Did you look in that area where you had last
17 seen the van toward this van?

18 A. Yes.

19 Q. But with no results?

20 A. No.

21 Q. Officer, you've talked about some -- some of
22 this stuff and I think maybe a map or a photograph
23 will show a little bit better.

24 MR. SKURKA: May I approach, Your Honor?

25 THE COURT: Yes.

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1 Q. (BY MR. SKURKA) I've got a map here that I'm
2 going to mark as State's Exhibit 60. Will you take a
3 look at that for me, please, and does that show the
4 area that you testified about, where your chase
5 started and where you lost sight of the van?

6 A. Yes, sir.

7 Q. What I'm going to have you do is use this red
8 -- yellow highlighter to kind of start where you first
9 came in contact with the van and then trace the -- the
10 roads that you went down to where you finally lost the
11 van at Winnebago Street. Can you do that with that
12 map?

13 A. Yes, sir.

14 Q. Okay. Thank you.

15 MR. SKURKA: I tender State's Exhibit
16 60 to Defense Counsel and offer into evidence.

17 MR. GARZA: No objection, Your Honor.

18 THE COURT: All right, it's admitted.

19 MR. SKURKA: May I publish to the jury?

20 THE COURT: You may.

21 Q. (BY MR. SKURKA) We're going to start -- it
22 won't fit on the whole thing so I'm going to start at
23 the bottom and go up. Using a laser pointer in front
24 of you can you trace your direction on where you
25 basically started.

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1 A. We started somewhere -- this is Staples
2 Street. Is this basically -- we responded from up in
3 this area up here.

4 Q. Is that the Six Points area? Where would Six
5 Points be?

6 A. There's Staples, Alameda, right here.

7 Q. Okay. That would be Six Points, and so were
8 you coming southbound?

9 A. Yes.

10 Q. Go ahead and show us where you came, and
11 where did you come in contact with the vehicle?

12 A. Came in contact -- I'm going off. And on
13 this, I don't know exactly where we saw it first but
14 it's right in there and it's right at Buckaroo's is
15 basically where we conducted the traffic stop and they
16 took off again, and then they proceed to go up
17 Brownlee. Where is Ayers? Again, there's a light
18 right here, full-cycling light, across that, continued
19 north on -- cross Morgan to full-cycling light there.

20 All these cross streets have stop signs so
21 Brownlee has the right-of-way but there's a light
22 here, light here, all these stop signs, and we
23 continue north.

24 Q. Go ahead, go ahead.

25 A. Basically further than that is residential

80

1 and this is where it merges in with the off ramp. I
2 think this is where there's a flashing red and the
3 stop sign. This is initially where we started losing
4 them right here.

5 Q. And you're looking at the corner of Agnes
6 and --

7 A. Brownlee.

8 Q. Okay.

9 A. This is where the Circle K is right here as a
10 reference point if you get off and you're going
11 downtown there the first Circle K on your right,
12 there's a stop sign and a flashing red. The public,
13 when you're going this way, you see the flashing
14 yellow so they have the right-of-way. The van just
15 flew through there. We had to clear that intersection
16 and we continue, we had to stop here because there's a
17 blind corner here and a stop sign, and this is where
18 we really lost ground on the van.

19 And then we continue northbound along the
20 access road, and this is right -- right in this area
21 is where they kind of -- there's a drop off, it drops
22 down where you actually see Leopard.

23 Q. Hold on a second. You're at the corner of
24 Brownlee and where?

25 A. That would be Mestina. Mestina is right

81

1 here. It's the first street before Leopard and then
2 Comanche. I would say it was right in this area where
3 it kind of drops off where you can physically see, and
4 then you can see under the freeway and the last time
5 we saw the van it was turning right on Winnebago
6 Street.

7 Q. What else is around that area around
8 Winnebago Street, please?

9 A. You have the access road and you have the old
10 police station, the general area over here, and you
11 have -- there's a park right there that T's off, and
12 you have a bunch of housing over here. We assumed
13 that the vehicle had gone over here on some of the
14 housing on the north side off of Alameda and that's
15 where we --

16 Q. And that's where you looked?

17 A. -- That's where we went but I guess it
18 circled back around more to the west.

19 Q. Okay. At the time there was other units
20 besides yours looking for this thing, right?

21 A. Yes, as this progressed there was people
22 responding from, like I said, there was -- they were
23 pulling officers from the south -- the districts from
24 the south side of town and the Annville area because
25 we had three major crimes occurring basically within a

82

1 short time frame.

2 Q. Because of all of the crime scenes did you
3 have anything else to do with the apprehension of
4 these people --

5 A. We --

6 Q. -- or were those other officers that did
7 that?

8 A. I didn't go to any other crime scenes
9 personally. We -- we initially -- we helped search
10 the north side area, then we were told they found the
11 van, and -- and had two females in custody, and at
12 some point we went to the police station after that,
13 and then early in the morning, probably within a
14 couple of hours they brought in some blood hounds from
15 one of penitentiaries and we assisted with the search
16 until like 11 in morning, 11 or 12:00 in the morning.

17 Q. So you were there most of that time?

18 A. Yes.

19 Q. Okay. Let me go back to one last area.
20 We're going to switch this over and I'm going to try
21 to show you the area on the satellite photograph where
22 you began the chase, if I could, please.

23 Officer, I'm going to show you -- are you
24 familiar with Google maps?

25 A. A little bit, yes.

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1 Q. They have this thing called "The Street View"
2 and I want to see if you can recognize it as we go
3 down the street. And Mr. Schimmel is going to show
4 you this.

5 Okay. Are you kind of oriented to where
6 we're looking at now?

7 A. Yeah, I think so, yeah.

8 Q. Okay. Which way would we -- would we be
9 facing?

10 A. We should be facing north. Yeah, north, if
11 I'm not mistaken.

12 Q. Would that picture if you kept following it
13 down would that go to Six Points?

14 A. Yes.

15 Q. Okay. To the left on the picture --

16 A. Is the school.

17 Q. -- that's the school. Where's Buckaloo
18 Street or Buckaroo Street, wherever you're saying?

19 A. It should be up there on the left, if I'm not
20 mistaken.

21 Q. Okay.

22 A. It's a cut-through street.

23 Q. So does this show where you pulled them over,
24 is this the close area or further up the street?

25 A. I think it was up there on the -- right on

84

1 the left up there, if I'm not mistaken.

2 MR. SKURKA: Go ahead and advance it.

3 Q. (BY MR. SKURKA) What is that now?

4 A. Actually it's probably right around somewhere
5 in there.

6 Q. According to the map it says Buckaloo Street,
7 right?

8 A. Buckaroo.

9 Q. Buckaroo Street, I'm sorry. Is that the way
10 you went down that way? Are you having a hard time
11 seeing it? It's too close?

12 A. Yeah, it's like -- sorry.

13 Q. Are you aware if that street is a one-way
14 street or a two-way street?

15 A. Sign says one way.

16 Q. Okay. So when they first started were they
17 going down the wrong way in a one-way street?

18 A. I -- I'm not sure, I'm trying to remember.

19 THE COURT: Let me ask you this, were
20 they going down -- cause I'm a little confused. Did
21 they turn down Buckaroo or did they turn down
22 Brownlee, the next street down, cause Brownlee is the
23 next street over, isn't it?

24 THE WITNESS: We went -- we pulled over
25 about even with Buckaroo but we ended up traveling --

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1 all the traveling was going down -- was on Brownlee.

2 THE COURT: Okay.

3 THE WITNESS: So that's where I'm kind
4 of -- and everything is different at night, I work
5 graveyards for ten years and --

6 Q. (BY MR. SKURKA) Would the map help you get
7 oriented?

8 A. Yes. I'm a night person at heart but
9 everything is different. Like I said, It's been like
10 four years now.

11 Q. Now, Buckaroo, does it go on this side, too?

12 A. No, it's a one-block street there one way.

13 Q. So is it your testimony that you pulled over
14 -- pulled them over around this area before you got to
15 Buckaloo -- Buckaroo Street?

16 A. No, right next to Buckaroo is where they
17 pulled over. I'm thinking they pulled over on the
18 wrong side, if I'm remembering correctly. I just need
19 time to reference them out. I want to be as accurate
20 as possible here.

21 When I -- when you put your report you
22 want -- where you stop them or whatever, you stop them
23 at -- you put the closest cross street and not
24 necessarily turn down Buckaroo, it was at Buckaroo. I
25 want to say they pulled over to the left side right at

86

1 Buckaroos or maybe it was somewhere right in here.

2 Q. So they pulled to the wrong side of this
3 road?

4 A. I'm trying to -- I'm trying to get my
5 bearings straight. To be honest with you, I don't
6 know exactly -- the exact location where they pulled
7 over. Now I'm trying to get myself confused, second
8 guessing myself.

9 Q. Well, let's pick up where you did remember.
10 Was it on Staples or Buckaroo Street or Brownlee?

11 A. Turned around on Staples, pulled -- we pulled
12 over right around Buckaroo and then the pursuant went
13 down Brownlee.

14 Q. Okay.

15 A. The only way we could have pulled over on
16 Buckaroo itself is if we made that full block the
17 wrong way and then went over and that didn't happen so
18 I'm assuming -- like I said, I'm assuming cause I
19 don't remember the exact location, it's such a compact
20 area right there, it's not even a full block, the
21 streets run parallel. It was only a building in
22 between them. It was right there at them.

23 Q. So would it be fair then you went down
24 Brownlee, not Buckaroo -- Buckaroo?

25 A. I never said I went down Buckaroo, I said I

87

1 pulled them over at Buckaroo.

2 Q. Oh, Okay, That's what we're trying to figure
3 out. So then you went down Brownlee?

4 A. Yes.

5 Q. And this is Brownlee, is it not, by the
6 office depot?

7 A. Yes.

8 Q. Okay. How many traffic lights or signals or
9 whatever did they disregard during this whole chase,
10 if you recall?

11 A. Well, like I said, you passed two full
12 cycling lights at Ayers and at Morgan and I don't
13 remember what those lights were on. I'm not going to
14 sit here and say they ran a red light, I don't know.
15 They -- I know they disregarded the -- the light at
16 Agnes and I know they disregarded the stop sign at
17 Laredo.

18 Q. Okay. Is this intersection the intersection
19 of Ayers and Brownlee?

20 A. Yes.

21 Q. Okay. And so they continued through that
22 light, correct?

23 A. That's correct.

24 Q. Going down Brownlee.

25 A. Correct.

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1 Q. Now, what would be the next major street past
2 Agnes?

3 THE COURT: Past Agnes or past Ayers?

4 Q. (BY MR. SKURKA) Past Ayers, I'm sorry.

5 A. Morgan. And it's not straight at Morgan, it
6 kind of makes a little bit of a turn to the right.

7 Q. Okay. What's that?

8 A. McKenzie, which is -- that's about halfway in
9 between.

10 Q. So they continue on down Brownlee?

11 A. Yes.

12 Q. Okay. And this street?

13 A. That was Elizabeth that you passed.

14 Q. Elizabeth. About how far was this chase from
15 where it started to where it ended? How many miles or
16 whatever?

17 A. I went back about a month ago and drove it
18 just to check it and be accurate and initially I
19 thought it was further than it was but it's roughly
20 two miles from Staples and Brownlee to Brownlee and 37
21 so I have two miles on my little car, my personal
22 vehicle.

23 Q. And it's all this -- which intersection is
24 this now?

25 A. That's Morgan.

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1 Q. That Morgan?

2 A. Yes.

3 Q. And that's one of the lights?

4 A. That's where it kind of makes a little slight

5 dog leg to the right, and I don't -- it was a full
6 cycling light four ways. I don't recall what the
7 light was there, I'm assuming it was green because we
8 really didn't lose ground until we got up to -- to
9 Agnes and Laredo.

10 Q. That's what we're going to show up next, but
11 all this time they're going 50, 60, 70 miles an hour?

12 A. Yeah, I'm sure -- during pursuits police --
13 department policy is that you're putting out traffic
14 conditions, directions and speeds. That way if
15 there's -- there's a supervisor monitoring, if it
16 sounds like to him that it's getting dangerous, like
17 if it's -- you're going 100 miles an hour down a
18 residential street then it's the supervisor's
19 responsibility to make a call to terminate pursuit.

20 So we're required to put out speeds. If I
21 had -- you know, I don't know with the new system if
22 we can get back to recordings or whatever but I'm sure
23 at some point and once a second unit gets involved in
24 a pursuit, they take over all the talking on the radio
25 where the initial unit can concentrate on the driving

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1 and what they're seeing. So I'm sure at some point we
2 were putting out speeds but I don't recall what they
3 were, I didn't --

4 Q. But it would be fair to say it was --

5 A. Yeah, we traveling about -- I don't
6 remember -- like I said, initially when we crossed the
7 van it wasn't going fast, but when I stopped it, I got
8 out and then when it took off it was on then, they
9 were going at a high rate of speed.

10 Q. And was there any other traffic out there
11 that time of night?

12 A. Yes.

13 Q. Heavy, light, medium?

14 A. I say at least moderate traffic.

15 Q. We're trying to get up to the area here where
16 Agnes Street is and tell us where that is.

17 A. This is a really bad, blurry video. It
18 should be coming close.

19 Q. Okay. What's that street?

20 A. That's Agnes Street.

21 Q. Back up a little bit on that one.

22 A. That's your one way going back towards town.

23 Q. Okay. That's the one that you were talking
24 about that had the red lights?

25 A. Yeah, you have a flashing red. When you're

92

1 clear both those intersections. They disregarded both
2 those traffic control devices.

3 Q. So now we're getting up to the part where you
4 kind of lost them or going by to the access road?

5 A. That's where they really gained ground on us
6 up there.

7 Q. I may have asked this already but did you
8 have lights and sirens going on during this time,
9 during the whole pursuit?

10 A. On the initial traffic stop we didn't have
11 sirens because usually you don't put sirens on unless
12 Somebody is not stopping, you just put lights on --

13 Q. Uh-huh.

14 A. -- but once you're in a pursuit, yes, you
15 have lights and sirens on.

16 Q. Show us where we're going now here.

17 A. You're continuing northbound, and to the left
18 up there you can see Crosstown Expressway or State
19 Highway 286, and you're going to go up there and it's
20 going to parallel right along side and becomes the
21 access road and you continue northbound.

22 THE COURT: It's not letting you go?

23 MR. SKURKA: No, I think that's as far as
24 it goes there. Let's go to Winnebago and see if we
25 see that.

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1 traveling on Brownlee you have a flashing red and when
2 you're traveling on Agnes each lane you have a
3 flashing yellow so the traffic has the right-of-way
4 going on Agnes and it's just a caution light for them
5 but you have the flashing red and you have the stop
6 sign obviously right there on your right so we got --
7 and you got a building post. Those kind of deals --
8 and then you got the Circle K right here.

9 We had to clear the intersection. We had to
10 slow down at least to the point where we could safely
11 cross it, and that's when it started -- the van
12 started gaining ground on us and you got a short block
13 after that to the next intersection.

14 Q. But this intersection -- this intersection
15 they disregarded the stop sign and the red light?

16 A. That's correct.

17 Q. And the next intersection is coming up real
18 quick here?

19 A. Yeah, this is a short block right here. I
20 think you're about to pass it. Yeah, this is Laredo.
21 It's a one way also but it's come from the downtown
22 area. You have the stop sign, you have a building on
23 the right so it's a blind corner bad. We had to ease
24 up and, like I said, the two -- those two are back to
25 back and really gaining ground on us so we had to

93

1 A. There it is.

2 Q. Now, is this the access road you're talking
3 about?

4 A. Yeah, basically what I call the access road.

5 Q. You said earlier something about a hump or
6 something, a hump in the road. Where is that?

7 A. Well, it's not as much as hump as it drops
8 off as you're going down in Leopard Street. It's --
9 past -- you go up a little ways and actually you going
10 to have some -- to think about it they ran -- there
11 would be some more traffic control device coming along
12 here on access coming to the courthouse. You have a
13 stop over here, you would have two more, you have the
14 overpass that's going over 286 and now you're on the
15 access --

16 Q. Now, this is the part -- one of these streets
17 would be the ones that you said turn to the
18 courthouse?

19 A. Yeah, one up, should be one up.

20 Q. Now, there's some stop signs along this area,
21 too, is there not?

22 A. That's correct. Now that I think about it
23 you got both these places here.

24 Q. That would be Comanche and Lipan?

25 A. Yes.

94

1 Q. And there's stop signs at both those
2 intersections?

3 A. That's correct.

4 Q. Now, we're getting toward the part where you
5 said --

6 A. I said the hump. It drops off and we're
7 dropping off right here, or is it a little bit
8 further?

9 Q. So they stayed on Brownlee Boulevard pretty
10 much the whole chase?

11 A. Yeah, it was a straight shot. I mean, you're
12 coming down and then you cross, yeah.

13 Q. Now, where were you when they were up here
14 coming down toward what street is this?

15 A. This is Leopard Street right here and you go
16 under -- under Interstate 37.

17 Q. How far back were you from them at that time?

18 A. We were further back at that point but it was
19 night and you were -- we're keeping track of the tail
20 lights and watching the vehicle and we were a little
21 further back but you could see them, they went up
22 under the freeway, you have the access road going one
23 way and they went up and the last safety call was
24 turning back to the right which would be -- should be
25 eastbound on Winnebago.

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1 Q. So it's just a few more blocks then?

2 A. Yes.

3 Q. Is that the freeway part you said they went
4 under?

5 A. Yes, underneath 37.

6 Q. Show us where the old police department is
7 coming up here.

8 A. It should be on your right. That was before
9 my time but, you know, obviously you heard about it.

10 Q. Is that the freeway part you said they went
11 under?

12 A. Yes, underneath 37. That's where the --
13 underneath 37.

14 Q. Is that the old police department there on
15 the right?

16 A. Yeah -- yes, sir, excuse me.

17 Q. How far up is Winnebago from there?

18 A. It's just right there, that's the
19 intersection.

20 Q. Oh, this is the intersection coming up?

21 A. Yes.

22 Q. How long -- we talked about how far you
23 traveled and you said two miles. How long did all
24 this pursuit take, how many minutes or whatever?

25 A. Oh, I don't know. When you're in one of

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1 those deals everything is -- you know, you don't --
2 the concept of time is kind of just thrown off. It
3 seemed like a lot longer than it is. In our previous
4 discussions on this I thought it had to be five or six
5 miles cause it seemed like it but I went back and
6 got -- when I left here that day and I went back and I
7 drove it, it was only two miles from Brownlee and
8 Staples to this intersection right here.

9 Q. Is this the intersection where you last lost
10 -- where you lost him at Winnebago --

11 A. That's correct.

12 Q. -- and --

13 A. Yeah, we were far back. They took a right
14 and by the time we made this intersection they were
15 gone.

16 Q. And is it your testify you circled around
17 that area looking for him toward the right of that
18 area supposedly, correct?

19 A. That's correct. There was I don't know how
20 many units but there was numerous other units in the
21 area, basically swarmed the -- swarmed the north side
22 area. A lot of times when there's stolen vehicles and
23 then we get in pursuits people don't go in the north
24 side of town so there's a lot of pursuits end up over
25 this.

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1 Q. Is there anything else you did during this
2 investigation besides this chase where it ended right
3 here?

4 A. We helped look for the vehicle a little bit.
5 Officers found the van, they took two females into
6 custody, took them downtown. There was a -- at some
7 point during the early morning hours there was -- they
8 got some mug shot photos. I saw the mug shot photos
9 and I -- and from me seeing the person driving the
10 vehicle to what they saw, that's how I -- when you
11 asked me earlier if I recognize the person, when I was
12 passing down the road and I put the stop light on
13 them, I didn't know the driver from anybody but when
14 had the mug shot pose, the females had identified who
15 was with them, and I said "Yeah, that's the guy," and
16 that's how I'm basing my testimony on being able to
17 identify the suspect.

18 Q. And, again, that man you identified earlier
19 is the person you saw driving the van?

20 A. That's correct.

21 Q. Thank you, Officer.

22 MR. SKURKA: I'll pass the witness.

23 THE COURT: Cross?

24 MR. GARZA: I have no questions.

25 THE COURT: You may stand down. Call

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1 your next witness.

2 MR. SKURKA: Officer Frakes.

3 THE COURT: Please don't discuss your

4 testimony with anyone while this trial is going on.

5 You may proceed.

6 MR. SKURKA: Thank you, Your Honor.

7 THE COURT: Come forward.

8 (Oath administered.)

9 THE COURT: Be seated. You may proceed.

10 MR. SKURKA: Thank you, Your Honor.

11

12 MIKE FRAKES,

13 having been first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SKURKA:

16 Q. Would you please introduce yourself to the

17 folks on our jury.

18 A. Good morning, my name is Michael Frakes. I'm

19 employed by the Corpus Christi Police Department.

20 Q. How long have you been with the Corpus

21 Christi Police Department?

22 A. In January it will be ten years.

23 Q. Can you tell us what area or division you

24 work in currently?

25 A. I currently am on the south side of Corpus

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1 Christi in the Charley district and I work the Charley

2 10 beat.

3 Q. And what does that mean?

4 A. It's -- each district is divided up into

5 beats and the District 10 is basically Ocean drive,

6 Staples, Alameda, from Everhart to Kostoryz.

7 Q. What did you do before you were a police

8 officer or did you have any other police officer

9 experience before you joined the police department

10 here?

11 A. Yes, I started off as a reserve police

12 officer which is a nonpaid volunteer program. You're

13 basically just -- you're a police officer, you look

14 the same but you just do it as a voluntary basis like

15 a volunteer firefighter and I did that since 1987.

16 Q. So you were a reserve for ten years and then

17 a full-time for ten years?

18 A. Correct.

19 Q. Tell us what area of patrol you were working

20 on or around the time of July 19th, '04.

21 A. At that time I was on the -- we redid the

22 boundaries so I was Charley 20 which is the same beat

23 as Charley 10 now, they just switched them up so it's

24 basically the same area.

25 Q. Can you give us a street?

100

1 A. Yes, the boundary is Everhart and Gollihar

2 and it goes to Ocean Drive and then Ocean Drive to

3 Alta Plaza, Texan Trail to Kostoryz and then Kostoryz

4 to Gollihar, Gollihar all the way back to Everhart.

5 Q. Essentially the south side?

6 A. Yes, essentially the south side.

7 Q. Had you ever worked in the area of the north

8 side or the Port area before this date?

9 A. Yes.

10 Q. Tell us when that was.

11 A. That was back in I believe 2001 and 2002.

12 That's the Delta district, which is the downtown

13 district.

14 Q. And are you familiar with that area? How

15 long did you patrol it?

16 A. Yes, I patrolled that area for about a year.

17 Q. I'm going to ask you, Officer Frakes, if you

18 had occasion to be on duty on July, 19th, '04?

19 A. Yes, I was.

20 Q. And did you have occasion to get involved in

21 some investigations of various crimes that took place

22 before midnight around the Times Market convenient

23 store, a Whataburger on Staples Street and a

24 Whataburger on Texan Trail and Alameda?

25 A. No, I did not get involved in those

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1 assignments. I was assigned after the vehicle pursuit

2 had started.

3 Q. Okay. So you didn't have anything to do with

4 the investigation of any of those scenes?

5 A. No, sir.

6 Q. So how did you get involved after they were

7 all over with?

8 A. I got involved when -- I had heard the -- the

9 robberies go out broadcast because in -- in the City

10 of Corpus Christi when you have a robbery they

11 broadcast it basically to all districts so you can be

12 on the lookout for any vehicles or suspects that may

13 go into your area. So I heard those and I basically

14 was just kind of like driving around and looking for

15 the vehicles involved and at the point where they had

16 spotted the vehicle and started the vehicle pursuant

17 the -- I believe it was one of the captains came on

18 the air and asked for, you know, all units that aren't

19 busy to get over to that area where the pursuant was,

20 and that's why I responded.

21 Q. So, when you responded what were you supposed

22 to be doing?

23 A. I was -- I had a description of the vehicle

24 and I basically rapidly got to the area, I came down

25 Ocean Drive and turned around the -- where the

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1 American Bank Center is now and made my way towards
2 the -- the Port, Northside Manor area.

3 Q. Why did you do that?

4 A. That was the area that they had last seen the
5 vehicle in the pursuit. I believe it was somewhere in
6 the Northside Manor area is where the last area where
7 they saw the van that they were pursuing them, they
8 lost sight of it, some of the JET Units lost it.

9 Q. Okay. You weren't involved in that part
10 either, correct?

11 A. No, sir, I was not.

12 Q. So what does the police department procedure
13 or policy when you're helping out other officers
14 looking for suspects?

15 A. Just pay attention to the radio, listen for
16 the last known direction that that vehicle was seeing
17 traveling and you try to make a perimeter of any
18 potential escape routes in the area and to try to box
19 it in the best you can.

20 Q. So, being familiar with that area, did you
21 know potential I guess hiding places or places where
22 the vehicles would go?

23 A. Yes, I was real familiar with the Port area.
24 There's a lot of dead-end streets, there's a lot of
25 side streets so it's really a target area and -- so I

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1 knew there were other units, there were a lot of units
2 in that area so I just kind of went where I would be
3 by myself kind of looking around.

4 Q. Okay. Another officer testified that he lost
5 the pursuant at the corner of I believe he said
6 Winnebago and Brownlee. Were other officers working
7 that area around that north side there?

8 A. Yes.

9 Q. But you didn't go that way?

10 A. No, I didn't go that way.

11 Q. You went to the Port -- in the Port area.
12 And how far away is that for some of us that may not
13 know where that is from that area where the van was
14 last spotted?

15 A. I would say that's probably maybe a half a
16 mile to maybe a mile. It's really close.

17 Q. So at the time you're looking by the Port,
18 most of the other officers are on the other side?

19 A. There were officers just in the whole area.
20 I heard them everywhere on the north side area because
21 by the time I had traveled from where I was to that
22 area probably took me a good five, six minutes to get
23 there and so, you know, a vehicle can travel, you
24 know, quite a distance, you know, by the time I heard
25 that they had last their pursuant so the better -- you

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1 know, the best thing to do is to span out and start
2 looking.

3 Q. Where were you looking, what streets were you
4 looking at, if you recall their names?

5 A. I believe I came down Port Avenue and I just
6 cruised around the Port where the warehouses are,
7 where Whataburger field is now and just slowly looked
8 around and my -- I ended up on Brewster Street.

9 Q. As you were going down Brewster Street, can
10 you describe the area for me, please.

11 A. Brewster Street is basically a lonesome
12 street. There's really nothing on it. There's some
13 brushy area bounded by railroad tracks and a large
14 canal, water canal, and then across the street from
15 that there's a business that's in a fenced-in
16 chain-link fenced area, I believe it's some type of
17 warehouse. There's a little short little street,
18 there's not much on it.

19 Q. As you're going down Brewster Street, did
20 anything catch your attention?

21 A. I was driving down Brewster Street and I had
22 my lights off on my patrol car and I had my spotlight
23 on and I was looking around trying to, you know, be as
24 stealthy as I can and I'm driving and out of the
25 corner of my eye I see a red flash like a reflector

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1 and I caught it, I rode past it, and I was like "What
2 did I see?"

3 And I reversed and I got a better look and I
4 shined my spotlight down there and I could see a
5 vehicle that had been driven off of the road into the
6 wooded area and, of course, I shut my light off right
7 away and called for assistance.

8 Q. Did that vehicle you see, can you describe it
9 for us, please.

10 A. From the road it looked like a red van,
11 that's all I can really see because it was back off
12 the road maybe about 40, 45 yards.

13 Q. Can you see the front of the van, the side of
14 the van, the back of the van?

15 A. It was the rear of van, it was the right rear
16 corner I can see. That was the reflector that I
17 caught.

18 Q. So what did you do then?

19 A. Immediately I shut my lights off, I reversed,
20 tried to get out of the sight of that van. I didn't
21 know if there was anybody in it or around it, you
22 know, it's a dangerous situation already because I
23 heard the, you know, the homicide go out so I didn't
24 know how many people were going to be there, what I
25 was going to encounter. I was by myself, it's dark,

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1 there's no street lights so I basically got out of the
2 car, drew my weapon, had my flashlight lit in hand and
3 I waited for a back-up officer which arrived within
4 probably 30 seconds to a minute.

5 Q. Did you notice anybody -- any people on or
6 around the van?

7 A. No, no, it was totally quiet. I couldn't see
8 anybody.

9 Q. What was the lighting out there?

10 A. Pitch black dark except for stars above us.
11 It was a really dark area.

12 Q. Once your back-up arrived, what did you do?

13 A. Myself and Officer Delgado, who is my senior,
14 we basically, you know, approached the vehicle very
15 slowly, methodically because we had to watch the brush
16 area to make sure no one was going to run up on us or
17 come from behind, and we basically approached the van,
18 kind of like you would do a felony stop, if somebody
19 is going to be in there ready to take you out.

20 So we got up to the van and we found the van
21 empty. There was no one around the van.

22 Q. Could you tell the condition of the van if
23 anything about it?

24 A. From what I could recall, it was an older
25 van, Ford, or E-150 van I believe it was, half ton

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1 van, and it was conversion-style van, like a nice,
2 fancy van. And we went up to see if it had been there
3 for a while or if it had just arrived and the engine
4 was hot. You could tell that the vehicle had just
5 been abandoned, you know, pretty shortly after we
6 got -- before we got there.

7 Q. But nobody was inside the van?

8 A. No one was around the van, no.

9 Q. After you see that there's nobody in the van,
10 what happened next?

11 A. At that point we advised on the radio that
12 the van was empty so we know that whoever drove that
13 van in there is now scattered somewhere and we didn't
14 know how far away it could be cause it was very dense,
15 thick wood, so thick that you can hardly walk through
16 it, it was that thick.

17 Q. After that, did you hear about any other
18 people, officers involved in the search?

19 A. Yes. As other officers were coming to the
20 area cause I had put out that I had found the van, of
21 course, that draws the attention of other officers in
22 the area. Not everyone, but some of our officers had
23 responded and one of the other officers on the other
24 side of the brush were it ends and there's a railroad
25 track had come up a dirt road along the tracks and had

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1 spotted with his light two individuals on the railroad
2 tracks.

3 Q. Did you have anything to do with that
4 apprehension?

5 A. No.

6 Q. Okay. Let's let them talk about that and
7 let's go back to the van with you. So you weren't
8 involved in affecting the arrest of the other ladies,
9 correct?

10 A. No, I just heard it, I just heard it on the
11 radio.

12 Q. Let's give the jury a reference point to
13 where you were. I'm going to show you a map.

14 MR. SKURKA: May I approach, Your Honor?

15 THE COURT: Yes.

16 Q. (BY MR. SKURKA) I'm going to show you a map
17 that's been marked State's Exhibit No. 70 and ask you
18 to look at that and then I'm going to ask you to look
19 at some photographs marked 71, 72 and 73. Please look
20 at it yourself.

21 A. Sure.

22 Q. Can you identify the map listed as State's
23 Exhibit 70?

24 A. Yes.

25 Q. And can you identify what's been pictured in

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1 71, 72 and 73?

2 A. This is the van that was in the -- in the
3 woods.

4 Q. Okay. Does that map, No. 70, does that
5 accurately depict the roads and the streets that you
6 were around that night?

7 A. Yes, it does.

8 Q. And do those photographs, 71, -2, and -3
9 accurately depict the van as it was?

10 A. Yes.

11 Q. Now, for the record, the van is not
12 photographed in the actual woods; is that correct?

13 A. Correct.

14 Q. Where is the photograph at -- taken at, can
15 you tell?

16 A. This looks like it's going to be at the Port
17 warehouse, I believe.

18 Q. Is that where they removed the van to?

19 A. I'm not sure but I've been to that warehouse
20 and it kind of looks like that.

21 Q. But that is the van, is it not?

22 A. Yeah, I can see the grass still underneath
23 it. Yeah, that's the van.

24 Q. I just want to make sure it's clear to the
25 jury even though the van is a fair and accurate

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1 reproduction that's not how you saw it that night in
2 the woods?

3 A. Not like that, no.

4 MR. SKURKA: Your Honor, I'll tender
5 State's Exhibit 70, 71, 72, and 73 to Defense Counsel
6 and offer them into evidence.

7 MR. GARZA: No objection, Your Honor.

8 THE COURT: All right, they're
9 admitted.

10 MR. SKURKA: May you publish them to the
11 jury, Your Honor?

12 THE COURT: You may.

13 Q. (BY MR. SKURKA) I'm going to first show you
14 what's marked State's Exhibit 70. Can you tell me
15 what that is, please?

16 A. That is a picture you just showed me of the
17 area that I was -- that I found the van in.

18 Q. Actually, it's not a picture, is it, it's a
19 map.

20 A. It's a map.

21 Q. There's a laser pointer in front of you that
22 you can use --

23 A. Sure.

24 Q. -- for the jury, and can you show us where
25 some main streets are? And let's start with Brewster

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1 Street, where you found the van.

2 A. Sure, this area right here is Brewster and it
3 comes -- there's actually -- if you get off this map
4 just a little bit there's a -- a street that comes off
5 of Port, comes down and turns on to Brewster right
6 here and then Brewster comes back to Port Avenue.
7 This is -- this is Port, this is the main thoroughfare
8 to the Port area where mostly everybody goes to
9 Whataburger field, it's the main highway.

10 Q. At this time Whataburger field was there or
11 not there?

12 A. No, it was not there at the time, and at that
13 time this whole Port area, there was really -- it was
14 just industrial area, it's -- Brewster Street Ice
15 House was not there, that was just basically an
16 abandoned area as far as business.

17 Q. You said over here on Brewster Street. Where
18 -- is this the railroad tracks along here, is this the
19 railroad tracks?

20 A. This is the railroad track, correct.

21 Q. Now, show the jury when you were coming down
22 the street what area were you patrolling or looking
23 around when you first spotted the van?

24 A. I had -- I had come down this street here,
25 and I had come down Port Avenue and I turned on a side

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1 street, I'm not sure what street this is, it's a
2 little small street and I turned on Brewster and I was
3 driving this area right here.

4 Q. For the record, you're showing from right to
5 left on Brewster Street?

6 A. Correct, this would be -- this would be north
7 going I believe south, and when I got to about this
8 point about right in here is where I spotted the van
9 up in -- spotted in this area.

10 Q. I'm going to go ahead and show you the map
11 and have you write it in little -- I guess a box or a
12 little rectangle indicating where the van was when you
13 located it. Just approximate how far in and whatever.

14 A. (Witness complying.)

15 Q. And would you put a V on there that shows
16 it's a van.

17 A. (Witness complying.)

18 Q. I'm going to show the jury that now where
19 you're marking it. In that wooded area or brushy area
20 how far in would you say the van was?

21 A. I would say at least 40 yards.

22 Q. 40 yards inside?

23 A. 40 yards. And the only way we could really
24 get to it was to follow the path of the van and cut
25 out the -- the brush.

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1 Q. Was there a pre-existing path?

2 A. No, absolutely not.

3 Q. I'm going to show you -- I'm sorry, I've
4 already admitted these. 71, what is State's Exhibit
5 71?

6 A. That's the red van that was in there.

7 Q. Is that the kind of angle or direction you
8 saw it from when you knew it was in the woods?

9 A. It would have been more tilted towards the
10 right. I can see the -- the corner of the back right
11 area and the license plate. This area here.

12 Q. Okay. So it was more on that side but --

13 A. It was used more like it --

14 Q. And, of course, the only difference is this
15 was in a warehouse; correct?

16 A. Correct.

17 Q. We have the other two pictures, 72 and 73.

18 Does that also show the van? And what does that show,
19 State's Exhibit 72.

20 A. That would be the driver's side of the van.

21 Q. And 73?

22 A. That's the passenger side, grass and brush
23 still hanging, scratch marks from driving into the
24 trees and whatnot.

25 Q. Now, you're familiar with this area and

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1 you've gone back to this area or been there since this
 2 time; correct?
 3 A. Correct.
 4 MR. SKURKA: Your Honor, may I approach?
 5 THE COURT: Yes.
 6 Q. (BY MR. SKURKA) I have another series of
 7 photographs marked 69 -- I'm sorry, 61 through 69.
 8 Would you please take a look at those --
 9 A. Sure.
 10 Q. -- and tell me what those are.
 11 A. This is an aerial view of the area.
 12 Q. Why don't you go through all of them before
 13 you do them one at a time.
 14 A. Okay.
 15 Q. Have you had a chance to review those
 16 photographs?
 17 A. Yes.
 18 Q. What are they essentially?
 19 A. It's basically an aerial view of the wooded
 20 area where the van was found.
 21 Q. Does that show the area -- a fair and
 22 accurate depiction of the area that the van was
 23 located off Brewster Street?
 24 A. Yes.
 25 Q. And obviously these seem to be taken during

115

1 the daytime where you found it --
 2 A. Correct.
 3 Q. -- Correct?
 4 A. Correct.
 5 MR. SKURKA: Your Honor, I'll tender 61
 6 through 69 to Defense Counsel and offer them into
 7 evidence.
 8 MR. GARZA: No objection, Your Honor.
 9 THE COURT: They're admitted.
 10 MR. SKURKA: May I publish them to the
 11 jury, Your Honor?
 12 THE COURT: You may.
 13 Q. (BY MR. SKURKA) Starting with the first one,
 14 61, and using the laser pointer, will you help show
 15 the depiction of the satellite photograph of where
 16 Brewster Street is. Let's get oriented that way
 17 first. Where is Brewster Street on that?
 18 A. This would be Brewster Street right here.
 19 This photo would be looking towards the Harbor Bridge
 20 area so we're looking from the south to the north.
 21 Q. And where is the wooded area that you've been
 22 talking about?
 23 A. This area right here. Actually, much larger
 24 than what it looks like. To walk it, it's very --
 25 Q. We've got some more photographs to show so

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1 let's go through those.
 2 THE COURT: Let me ask you this, where
 3 would Whataburger field be now?
 4 THE WITNESS: Whataburger Field would be
 5 right there.
 6 THE COURT: Okay.
 7 THE WITNESS: As a matter of fact, it's
 8 in this photo. This photo looks like it was taken
 9 since that has been put up so this would be
 10 Whataburger Field right here.
 11 THE COURT: Okay.
 12 Q. (BY MR. SKURKA) Go ahead and show him the
 13 next one, please. What does that show?
 14 A. This is the -- this is Brewster Street and
 15 this would be looking from west to east going this
 16 way.
 17 Q. Okay.
 18 A. This is the railroad track that's behind the
 19 area.
 20 Q. So where would you have been and where would
 21 the car have been found?
 22 A. I was about right in here and the -- the
 23 vehicle was like about right in here, in that area.
 24 MR. SKURKA: Go ahead and show the next
 25 one.

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1 Q. (BY MR. SKURKA) Now, what angle is that
 2 taken from of the wooded area?
 3 A. This would be from the north being here
 4 looking southbound, Brewster Street being right here
 5 and the -- the area would have been like right in
 6 through here.
 7 Q. What's that street down there at the bottom
 8 of that photograph, please?
 9 A. This street right here, this is the street I
 10 was telling you about on that other map and I'll have
 11 to reference it if it's on here, it's a very small
 12 street. Let's see if I can see it on here. I'm not
 13 sure. I know this is -- there's a street sign about
 14 right here that shows 900 -- I believe it's 8 or 900
 15 Brewster is this street but I'm really not sure what
 16 street this is. It's a -- not a well-maintained road.
 17 Q. Okay.
 18 MR. SKURKA: Next photograph, please.
 19 Q. (BY MR. SKURKA) What angle is that taken
 20 from of the wooded area?
 21 A. This would be from the the east looking west.
 22 This would be going towards the -- the Port Channel
 23 would be up to the top. Whataburger Field would be
 24 off this way.
 25 Q. So there's really only industrial sites

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1 around there?

2 A. Just industrial sites.

3 Q. An the next one?

4 A. This is just all dark.

5 Q. What does that show?

6 A. This would be looking from the -- the west to

7 the east, south and north. This would be Brewster

8 Street right there.

9 Q. Okay. And the van would have been located

10 where?

11 A. About right in this area.

12 Q. Okay. I'm going to go ahead and have you

13 draw on that one, too, and if you would, draw a little

14 box or rectangle or square to show approximately where

15 the van was and then put a V inside of it.

16 A. Sure.

17 Q. Does that fairly and accurately show

18 approximately where the van was found?

19 A. Yes.

20 Q. Okay.

21 MR. SKURKA: The next -- I think we have

22 one more.

23 Q. (BY MR. SKURKA) Show us where we're at here,

24 where's Brewster Street?

25 A. This is Brewster Street right here and this

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1 is where I came on to Port this way. This is the

2 direction I was traveling, this way. The van would

3 have been right in this area right here.

4 Q. Okay. So you've given us an idea where the

5 van was. I'm going to try something different here

6 and ask you to look at this Google street map and see

7 if you can trace where we're at. Are you familiar

8 with Google maps?

9 A. Yes.

10 Q. It has this really neat thing that goes like

11 this. Can you see where Brewster Street is there on

12 the street level?

13 A. Sure can.

14 Q. So is this the road that you were going down?

15 A. That's the road I turned on off of this

16 street right here.

17 Q. Is this the wooded area on the left?

18 A. That's the wooded area.

19 Q. And can you tell me how far down I should go

20 for you?

21 A. It was about to that driveway right there.

22 Q. Where that driveway is on the right?

23 A. Uh-huh. It would have been back in this --

24 off in this area here.

25 Q. Let me see if I can rotate it a little bit.

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1 A. That's a little too far. Back a little bit.

2 Right in through here.

3 Q. Right in through that area?

4 A. Uh-huh.

5 Q. Is that pretty much how it looked that night?

6 I mean, beside it being dark?

7 A. The light, the daylight.

8 Q. Is it that thick in there?

9 A. It's very thick.

10 Q. And it's your testimony it went about 40

11 yards in there?

12 A. About 40 yards from the roadway.

13 Q. It doesn't appear to be any path at all.

14 A. I'm sure this was several years after.

15 Q. Okay. And let me go back to this area. Now

16 I'm going to go back to a bigger shot, a wider shot.

17 Does that show the Port area there?

18 A. Yes.

19 Q. Let's start with the Port and the bridge

20 where everybody can probably recognize. Use your

21 laser pointer and show us where that is.

22 A. This would be the Harbor Bridge going towards

23 Portland right here, the Whataburger Field would be --

24 I believe it's right in here?

25 Q. Okay. That's not shown in this photo, right?

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1 A. It's an old photo.

2 Q. Now, which way do I go to find the place --

3 A. Right here.

4 Q. -- Brewster Street? Right in there?

5 A. Yes, this would be area. So that street I

6 guess is Sam Rankin.

7 Q. Let me see if I can go a little closer on

8 here. Does that show the wooded area on the satellite

9 photo?

10 A. Correct.

11 Q. What are these things over here?

12 A. Looks like trucks, tractor trailer trucks.

13 Q. So that would be a satellite view of the

14 wooded area and the parts around it. And indicate to

15 us where you were driving on Brewster Street and where

16 the van was.

17 A. This way, go down Brewster. Here's the

18 driveway you saw in the photos and right in through

19 here.

20 Q. Officer Frakes, that's all the questions I

21 have, thank you.

22 THE COURT: All right, cross?

23 MR. GARZA: I have no questions, Your

24 Honor.

25 THE COURT: You may stand down. Call

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1 your next witness.

2 THE WITNESS: Thank you, Your Honor.

3 MR. SKURKA: Officer Vasquez.

4 THE COURT: Please don't discuss your

5 testimony with anyone while this trial is going on

6 except the lawyers.

7 THE WITNESS: Yes, sir.

8 THE COURT: All right, come forward.

9 (Oath administered.)

10 THE COURT: Be seated. You may proceed.

11 MR. SKURKA: Thank you, Your Honor.

12

13 RALPH VASQUEZ,

14 having been first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SKURKA:

17 Q. Would you please state your full name for the

18 the folks on the jury.

19 A. Ralph Vasquez.

20 Q. How are you currently employed?

21 A. Police officer for the City of Corpus

22 Christi.

23 Q. How long?

24 A. This August I started my 30th year.

25 Q. Well, congratulations, 30 years in one job is

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1 a long stretch.

2 A. Thank you.

3 Q. Can you tell us what divisions or area you

4 worked in the police department and start from the

5 beginning to where you're at now, or have you always

6 worked in one area?

7 A. I've worked patrol, I worked a year in

8 juvenile and the rest of time I worked patrol.

9 Q. I'm sorry, I didn't hear the last part?

10 A. I worked patrol most of the time.

11 Q. Can you tell us where you were working or

12 what area of patrol you had back on July 19, 2004?

13 A. I was working south side graveyard.

14 Q. Did you have occasion to hear on the radio

15 about any incident that took place before midnight at

16 the Times Market on 1902 Baldwin, a Whataburger on

17 Staples Street and another Whataburger on Texan Trail

18 on Alameda?

19 A. Yes, sir.

20 Q. Now, were you involved in any of the

21 investigations of those locations?

22 A. Not directly.

23 Q. Okay. How did you get involved -- did you

24 get involved in any attempted apprehension or chase of

25 any suspects of those -- involved in that crimes?

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1 A. Well, the dispatcher called out the robberies

2 and -- at those locations and one of our JET officers

3 got in pursuit of a vehicle that matched the

4 description northbound Staples. As a general policy

5 what officers tend to do is they try to shadow or

6 parallel to the pursuit, just in case they break off

7 or the officer loses the vehicle.

8 When the JET officers were driving down

9 Staples northbound I headed on Alameda parallel the

10 pursuit just on the off chance that he would break off

11 or get lost in the pursuit.

12 Q. Okay. Were you in the pursuit of the van

13 yourself?

14 A. No, sir.

15 Q. Okay. You were in a parallel pursuit to try

16 to locate the person; correct?

17 A. Right.

18 Q. Tell the jury what you did and how -- where

19 you went.

20 A. Okay. When the JET officer said that they

21 proceeded northbound past Morgan heading toward the

22 Sam Rankin area I proceeded down on Ocean Drive, went

23 down Ocean Drive to Shoreline and I was down --

24 downtown area on the off chance that they might, you

25 know, break off and head toward -- try to circle back

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1 to the south side.

2 Q. Did you find anything there?

3 A. No, sir.

4 Q. So where did you go?

5 A. I just sat in the immediate area. I think I

6 sat in the parking lot of Kinney and Shoreline.

7 Q. Why?

8 A. Like I said, on the off chance that maybe the

9 officers would lose them and they would come back,

10 circle back around.

11 Q. Did you find anything there after you sat up

12 there for a while?

13 A. No, sir.

14 Q. What's the next thing you did?

15 A. The next thing we heard is the JET officers

16 had lost the vehicle down in the Sam Rankin, north

17 Alameda area, and our uniform division commander came

18 on the air and stated that he wanted all the available

19 officers that were in the immediate area to go check

20 down in the Port area and search for this vehicle.

21 Q. So what did you do?

22 A. I went ahead and proceeded down Shoreline to

23 North Port down by the Bayfront, went that way and

24 started looking in the old industrial area. There's a

25 lot of abandoned warehouses and, you know, places

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1 where you can actually hide a van.
 2 Q. Are you familiar with that area in your 30
 3 years of --
 4 A. I had worked that area about four years.
 5 Q. So you had patrolled that area before?
 6 A. Yes, sir.
 7 Q. Are there places to hide or hide a vehicle
 8 around that area?
 9 A. Plenty of places.
 10 Q. So what did you -- where did you end up
 11 going?
 12 A. I headed down Port Street toward Brewster.
 13 May I look at my notes here? I went down Port Street,
 14 headed towards Sam Rankin and Brewster Street and was
 15 looking around that area.
 16 Q. When you went to Brewster Street did you come
 17 across any suspect or did you receive any information
 18 about any suspects or vehicle?
 19 A. Well, when I was coming around Brewster
 20 Street, one of the officers said that they spotted a
 21 vehicle in a thick area, thick brushy area.
 22 Q. Do you recall what officer that was?
 23 A. I believe it was Frakes and Delgado.
 24 Q. Officer Frakes? He had found the vehicle?
 25 A. Yes, sir.

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1 Q. Did you know the area where he had found it
 2 on Brewster Street?
 3 A. Yes, sir.
 4 Q. So what did you do when you heard that the
 5 vehicle had been found around Brewster Street?
 6 A. So I went ahead and came around the corner.
 7 I was only right around the corner from where he was.
 8 By the time I got there there was three officers there
 9 approached the vehicle.
 10 Q. So what did you do?
 11 A. I watched as they approached the vehicle and
 12 I started thinking "Well, if they're coming up towards
 13 the vehicle that's in the brush area I'm going to go
 14 circle around the other side, possibly I'll be able to
 15 run across them there."
 16 Q. Did you?
 17 A. Yes, sir, I did.
 18 Q. Tell the jury what happened and where you
 19 were when it happened.
 20 A. Well, when I left the area I come around the
 21 corner from the brushy area and I was driving down I
 22 believe it was Sam Rankin and once I got to the --
 23 some railroad ties, it's a empty lot, there's thick
 24 brush in it but you could still see. It's maybe about
 25 waist high out about 250, 300 feet. It's dark out

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1 there, you can see white shapes.
 2 Q. What do you mean white shapes?
 3 A. Well, from that distance they looked like --
 4 like white garbage bags, you know, the kind you see
 5 flowing around all over the place, and I noticed that
 6 -- it's pitch dark out there. I saw that and I kept
 7 looking and you could see them moving unlike a regular
 8 bag so I went ahead and turned my unit into the field,
 9 headed out that way and spotted two females.
 10 Q. Where exactly did you spot them at?
 11 A. They were in the area next to the railroad
 12 tracks next to a ditch on the opposite side of where
 13 the van was.
 14 Q. So what did you do when you spot these two
 15 females?
 16 A. Well, when I got there one of them was
 17 standing up, the other one was sitting down, and they
 18 were acting kind of crazy so when I got out I took my
 19 my weapon down. I told them to just sit there while I
 20 asked for some assistance.
 21 Q. Had you received information over the radio,
 22 the police radio about possible suspect vehicle and
 23 the description of the people involved in these
 24 robberies?
 25 A. Yes, sir, they had put out a description of

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1 the vehicle, a van, I believe maroon or red color with
 2 a male and two females.
 3 Q. Did these people match the description of the
 4 suspects' information that had been out on the
 5 vehicle?
 6 A. Yes, sir.
 7 Q. So as you came upon them you said something
 8 about they were acting crazy. Tell the jury exactly
 9 what happened with the two women as you came up on
 10 them, and were you on foot or in your police car?
 11 A. I was in the police car. I rode right up
 12 on -- popped on my overheads and my spotlight, side
 13 spotlight and my take-down lights which were right on
 14 top of the overhead lights so they were well
 15 illuminated.
 16 We had received information that they were
 17 armed so when I got out of the unit, you know, I
 18 had -- I had pointed my weapon at them, ordering them
 19 not to move. One female complied, she was the one
 20 sitting down, she just sat there. The other one kept
 21 sitting there challenging us, or challenging me.
 22 Q. Define challenging you.
 23 A. Well, she was sitting there, you know, trying
 24 to make an aggressive move toward me and yelling and
 25 screaming, "Well, shoot me, shoot me, go ahead and

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1 shoot me." I was I'd say about five feet, six feet
2 away from her and every time she would move forward I
3 would take a step back.

4 Q. Did she have a weapon?

5 A. No, sir.

6 Q. Did either of them have a weapon?

7 A. Not that I could locate.

8 Q. But the second one kept telling you to shoot
9 them?

10 A. Right.

11 Q. Did you?

12 A. No.

13 Q. What happened then?

14 A. At that time another officer, Officer Chapa,
15 arrived and he went ahead and grabbed her, took her
16 down to the ground.

17 Q. Grabbed who?

18 A. The one that was standing up.

19 Q. Okay. Was Chapa I guess another officer who
20 had responded to the scene?

21 A. Right.

22 Q. So he's the one that actually took them down
23 -- took her down?

24 A. Took her down, yeah, the one that was
25 standing.

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1 Q. Can you tell us how these ladies appear?

2 A. Well, their clothing was soiled and there was
3 blood all over them.

4 Q. Subsequently were you able to identify who
5 the people were?

6 A. Yes, sir. Let's see here, the female was
7 sitting on the ground. Her name was Christina Chavez.
8 And the female that was standing up and challenging
9 me, her name was Angie -- Angelica Rodriguez.

10 Q. Are you and Chapa the ones that actually put
11 them under arrest?

12 A. Yes, sir.

13 Q. And did you see them that night?

14 A. Yes, sir.

15 MR. SKURKA: I'm going to approach -- may
16 I approach, Your Honor?

17 THE COURT: Yes.

18 Q. (BY MR. SKURKA) I'll show you what's marked
19 State's Exhibit 74 and 75, and ask you to look at
20 those and see if you recognize that.

21 A. If I'm not mistaken this one is Angie.

22 Q. Are these photographs of the two women that
23 were captured that night by you and Officer Chapa?

24 A. Yes, sir.

25 Q. Okay.

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1 MR. SKURKA: I tender State's Exhibit
2 74 and 75 to Defense Counsel and offer them into
3 evidence.

4 MR. GARZA: No objection, Your Honor.

5 THE COURT: All right, they're

6 admitted.

7 MR. SKURKA: And may I publish them?

8 THE COURT: Absolutely.

9 MR. SKURKA: I'll publish them in a
10 minute, Judge. I'll show them to the jury in just a
11 minute.

12 Q. (BY MR. SKURKA) Officer Vasquez, I want to
13 show you a map that's up on the wall behind you, it's
14 called -- it's a Google map thing and there's a laser
15 pointer in front of you. Does that show the area
16 around Brewster Street that you were talking about
17 earlier?

18 A. Yes, sir.

19 Q. Can you show the jury where you were at and
20 what street you went down before you affected this
21 arrest?

22 A. Okay. When I was checking the -- when I was
23 checking the area, Officer Frakes and Delgado said
24 they spotted a vehicle right in this area here. I had
25 come off of Port Street this way, stopped there and

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1 observed that all the officers were sitting there
2 approaching the van. I came down Sam Rankin and right
3 about here is where I spotted them, the two figures.

4 Q. Where were the two figures?

5 A. Right here.

6 Q. What else is around that area between where
7 you were on the street and down this area? Describe
8 that area, please.

9 A. This is a ditch, about three and a half,
10 four-foot ditch. It's not very tall, I'd say about
11 six feet wide. These are railroad tracks right here.

12 Q. And where were you, about over here?

13 A. I was right here.

14 Q. Okay. I'm going to try something, it's
15 "Street View," and see if it works. About right here?

16 A. Uh-huh.

17 Q. Oops. There it goes. Now, if you were at
18 that intersection of Sam Rankin -- let me turn this
19 around, would that show the area? I think I went too
20 far. If you continue down this street, where would
21 you go to?

22 A. Let's see, if you're going back this way
23 you're going back into town.

24 Q. Okay. Well, I'm asking what street that
25 would be.

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1 A. This is Sam Rankin. That one over there is
2 Brewster.

3 Q. Okay. So it would be fair to say you came
4 from Brewster to Sam Rankin; correct?

5 A. Right.

6 Q. See what I'm showing you?

7 A. Yes, sir.

8 Q. Does this show the area around Brewster
9 Street where you saw the other officers?

10 A. Right.

11 Q. Okay. Now, let me go back down Sam Rankin.
12 What does this show here?

13 A. Okay. Well, before they had this I guess
14 clearing area I was right about here when I looked
15 back.

16 Q. You have to use the laser.

17 A. Right there. That's where I spotted them,
18 the white objects.

19 Q. So you could see down if -- the perspective
20 is from Sam Rankin Street; correct?

21 A. Right.

22 Q. What is this along here?

23 A. This is a little ditch or a little gulley
24 area and that is railroad tracks.

25 Q. And where does the tree line end?

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1 A. Well, at that time the tree line ended right
2 in here.

3 Q. Okay. But there's kind of a cut path.

4 A. Right, there's a cut path on all this, all
5 right here.

6 Q. Okay. And where did you see the women at
7 first, the two shapes?

8 A. Right there.

9 Q. And for the record, you're showing at the end
10 where that little stream of water is?

11 A. Where it curves.

12 Q. Where it curves?

13 A. Right, right, where it curves.

14 Q. And where did the women -- where did you
15 drive your vehicle then --

16 A. Well --

17 Q. -- is it farther up the road?

18 A. -- right through here. All this was bushy
19 area.

20 Q. Okay.

21 A. I don't remember if this water was here at
22 that time but all I remember I did go straight down
23 this way.

24 Q. Does this show a better perspective looking
25 from this angle or was it better the other way?

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1 A. A lot has changed in four years but I was
2 right here and went straight down the railroad cause
3 these railroad tracks haven't changed.

4 Q. Okay. Let me go back to the railroad tracks,
5 that might be easier to do. Okay. By the railroad
6 tracks, you were by them?

7 A. Right, I was sitting right here and I was
8 looking that way.

9 Q. Okay. Let me turn it that way.

10 A. Right there.

11 Q. I guess what I'm trying to ask here were they
12 found on this side of the railroad tracks or this side
13 of the railroad tracks?

14 A. They're sitting right there. The railroad
15 tracks continue straight and this little ditch curves
16 back that way so that like section right there between
17 it's like a little Y section right there.

18 Q. It was right there and you were able to keep
19 your vehicle up through here.

20 A. Right.

21 Q. Okay. Is that caliche or just dirt or what?

22 A. Yes, sir, it's kind of like caliche.

23 Q. So you could spot them from way over there.
24 Is there any lighting around there at all?

25 A. No, sir.

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1 Q. I'm just about finished here and I'm going to
2 switch this off with this satellite thing. We have
3 some photographs that were already admitted into
4 evidence and I'm going to show you what's marked 67.
5 What does that show, please?

6 A. Okay. That's Brewster Street, that's Sam
7 Rankin over here, and this is about the area they
8 found the van.

9 Q. Okay. And where were you when you -- where
10 were the ladies when you spotted them?

11 A. Right there.

12 Q. Okay. Now, there's some kind of vehicle or
13 machine --

14 A. That's machinery.

15 Q. Where exactly were the women?

16 A. Right about here, right about there.

17 Q. Okay, I'm just going to have you -- let me
18 see if there's another angle that will show that
19 better. 68, look at that.

20 A. Right here.

21 Q. Okay. I'm going to show this to you and have
22 you draw two Xs where you saw the two women.

23 MR. SKURKA: And can you put the two
24 women up on the board, Geordie, just laying side by
25 side, please.

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1 Q. (BY MR. SKURKA) And this is how they looked
2 that night when they were captured?
3 A. Yes, sir.
4 Q. And that was you and Oscar Chapa?
5 A. Right.
6 Q. Okay. And I just want to show the jury where
7 the two Xs are where you said they were actually
8 apprehended.
9 A. (Indicating.)
10 Q. And that would -- I don't know how to
11 describe that except that's kind of where it bends?
12 A. Uh-huh.
13 Q. Okay. Did you find John Henry Ramirez, the
14 Defendant in this case that night?
15 A. No, sir.
16 Q. Did you look for him?
17 A. Yes, sir.
18 Q. Did you see anybody else around the two women
19 that were over there?
20 A. No, sir.
21 Q. Were other officers searching that area also?
22 A. Yes, sir. As a matter of fact, when I put
23 myself out on these two vehicles, Officer Chapa came
24 up this way since he saw my vehicle out there and
25 Grace Delgado came through the shrub area out this

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1 way.
2 Q. Was that shrub area pretty thick around here?
3 A. Yeah, it was like thick.
4 Q. And so Chapa came from this area, too?
5 A. Yes, sir.
6 Q. And that's where you had come also?
7 A. He came right off of Sam Rankin. He was
8 behind me.
9 Q. You-all took the same path.
10 A. Right.
11 Q. Okay. I think that's all the questions I
12 have, Officer Vasquez. Thank you.
13 THE COURT: Cross?
14 MR. GARZA: Yes, Your Honor. Can we
15 start right after lunch?
16 THE COURT: Yeah, yeah. All right, let's
17 go ahead and break for lunch at this time. We'll see
18 you at 1:30. All rise for the jury, please.
19 (Jury exits courtroom.)
20 THE COURT: All right, you-all can be
21 seated. Is there anything we need to take up
22 before --
23 MR. GARZA: No, Your Honor.
24 THE COURT: Okay, we'll see you at 1:30.
25 (Noon recess.)

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1 (Jury enters courtroom.)
2 THE COURT: All right, be seated, please.
3 Mr. Garza, your cross.
4 MR. GARZA: Thank you, Your Honor. May I
5 proceed?
6 THE COURT: Yes.
7 CROSS-EXAMINATION
8 BY MR. GARZA:
9 Q. Officer Vasquez, good afternoon. I have a
10 few questions I want to ask you about that evening
11 when you came into contact with the two female
12 suspects that we've been hearing you testify about
13 this afternoon. What were they wearing, if you'll
14 remember, if you recall?
15 A. Well, they were wearing white-colored
16 blouses. Let me refer to my notes and I can tell you
17 exactly what I jotted down.
18 Q. Okay.
19 A. Okay. Christina Chavez was wearing gray
20 warm-up pants, white muscle shirt, white tennis shoes;
21 and Angela was wearing a white sports bra and a jean
22 shorts.
23 Q. Jean shorts?
24 A. Uh-huh.
25 Q. Okay. Did they appear to have any sort of

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1 blood on any of their clothing, the outer clothing?
2 A. Yes, sir.
3 Q. Would you describe it as a lot, moderate --
4 A. Moderate.
5 Q. -- very little?
6 A. Moderate.
7 Q. About moderate. Both girls?
8 A. Uh-huh.
9 Q. Okay.
10 MR. GARZA: May I have just a second?
11 THE COURT: Uh-huh.
12 Q. (BY MR. GARZA) Let me show you what has
13 already been admitted as State's Exhibit 74. Were you
14 able to determine who this person was in this
15 photograph?
16 A. I believe that was Angela.
17 Q. Are you sure?
18 A. I believe so.
19 Q. Okay. And that the -- the shirt that she has
20 on, is that pretty much what she was wearing when you
21 encountered her?
22 A. I believe so.
23 Q. Do you know when this picture was taken?
24 A. No, sir.
25 Q. Would it have been after your arrest?

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1 A. Yes, sir.
 2 Q. Probably at the station?
 3 A. Probably.
 4 Q. Okay. And what about this person here?
 5 A. That would be -- that's Christina, I think.
 6 Q. Is that what she was wearing that particular
 7 evening when you arrested her?
 8 A. Well, I can't tell with her hair --
 9 Q. Well, let me see if we can --
 10 A. No, she was wearing something else.
 11 Q. What would she have been wearing?
 12 A. Well, according to my -- my notes here she
 13 was wearing white muscle shirt, gray warm-ups.
 14 Q. Could it be you have them reversed then?
 15 A. No, I don't think so.
 16 Q. Well, it's okay if you're mistaken about it,
 17 it's not going to make -- it's not going to make or
 18 break the situation but you don't know for sure?
 19 A. That was four years ago.
 20 Q. I understand but you're really not sure
 21 basically which is which?
 22 A. I -- about 99 percent.
 23 Q. Okay, well you're dead wrong, I can tell you
 24 right now. You've got them reversed. Is that --
 25 okay, so you think this person was wearing something

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1 else?
 2 A. (Nods head.)
 3 Q. What was she wearing?
 4 A. Well, like I said, what I put down on my
 5 report is what she was wearing when I picked her up.
 6 Q. Okay. So reread your report. You said that
 7 one of girls was wearing a sports bra and that as
 8 Angela Rodriguez.
 9 A. No, Angela Rodriguez wearing a white sports
 10 bra and blue jean shorts.
 11 Q. Well, the person in this picture appears to
 12 be wearing a white sports bra, does she not?
 13 A. And the other picture it seems like also.
 14 Q. Okay, All right. Well, anyway, if this is
 15 the person you think is Christina Chavez, you are
 16 trying to tell this jury that she may have ben wearing
 17 something else before this photograph was taken;
 18 correct?
 19 A. Right.
 20 Q. Like what was she wearing?
 21 A. I don't know. What I put on my report -- you
 22 know, the detectives took her clothing, after they got
 23 to the station, the I.D. techs took her -- whatever
 24 clothing she was wearing.
 25 Q. Okay. Well, let me ask you this just for

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1 purposes of establishing certain facts in the record.
 2 When you arrested these two females is this pretty
 3 much what they looked like and what they were wearing
 4 that night, more or less?
 5 A. More or less.
 6 Q. Okay. Now, in your report, Angela Rodriguez
 7 was wearing a sports bra with some sort of jeans
 8 short --
 9 A. Right.
 10 Q. -- according to your report --
 11 A. Uh-huh.
 12 Q. -- is that correct?
 13 A. Yes, sir.
 14 Q. And Christina Chavez was wearing some sort of
 15 a muscle shirt, you said?
 16 A. Gray warm-ups and a white muscle --
 17 Q. A white muscle shirt, okay.
 18 And I think you did indicate that they
 19 were -- they looked somewhat soiled and you did notice
 20 blood on their clothing --
 21 A. Right.
 22 Q. -- correct?
 23 A. Uh-huh.
 24 Q. Okay. Now, one of the females was sitting on
 25 the ground basically not giving you too much

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1 trouble --
 2 A. Right.
 3 Q. -- Correct?
 4 A. Uh-huh.
 5 Q. And the other female was acting in a little
 6 more of an assertive manner, actually asking you to
 7 shoot her --
 8 A. Right.
 9 Q. -- is that correct?
 10 A. Uh-huh.
 11 Q. And then Officer --
 12 A. Chapa.
 13 Q. -- Chapa ended up having to take her down and
 14 I guess subdue her and cuff her --
 15 A. Yes.
 16 Q. -- for security reasons --
 17 A. Right.
 18 Q. -- and bring her under control --
 19 A. Uh-huh.
 20 Q. -- is that correct?
 21 A. Yes, sir.
 22 Q. And who -- and that person was Angie
 23 Rodriguez --
 24 A. Right.
 25 Q. -- who was acting in that more assertive

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1 role.

2 A. Right.

3 Q. Okay. A little more aggressive.

4 A. Uh-huh.

5 Q. Okay. Did either of these two girls appear

6 to be intoxicated or under the influence of drugs --

7 A. Yes, sir.

8 Q. -- in your opinion?

9 A. Yes, sir.

10 Q. Both of them?

11 A. Both of them.

12 Q. Okay. How would you describe their -- their

13 demeanor, their attitude, the way they were acting?

14 A. Well, when I first came in contact with them

15 Angela was the one standing up, she was being the

16 aggressor. She was waving her arms around, acting

17 real crazy. Christina was the one sitting down. When

18 ordered to remain there, she stayed there passively.

19 Once we restrained them and put -- placed them in her

20 car, they started getting crazy, starting making faces

21 at each other like, you know, like a childish

22 demeanor. It was all a big joke to them.

23 Q. So each of them with placed in a different

24 car --

25 A. Yes, sir.

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1 Q. -- before they were transported off?

2 A. Right.

3 Q. And where were they transported off to, to

4 your knowledge?

5 A. After we placed them under arrest we

6 transported them to Baldwin and Staples, to the

7 Whataburger there so they could be identified by the

8 victims there.

9 Q. Were you -- were you present --

10 A. Yes, sir.

11 Q. -- during that show up?

12 A. Yes, sir.

13 Q. And were they identified?

14 A. Yes, sir.

15 Q. And then where were they taken from there?

16 A. Taken to the City Jail, the main station, the

17 C.I.D. office.

18 Q. So you had one of them in custody in your

19 vehicle?

20 A. Yes, sir.

21 Q. And the other one was in another vehicle?

22 A. Right.

23 Q. Who would that be, Officer Cantu?

24 A. No, Chapa.

25 Q. I mean, Officer Chapa?

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1 A. Yes, sir.

2 Q. Okay. All right. So then at that time they

3 with both taken to --

4 A. To the main station.

5 Q. -- to the main station --

6 A. Yes.

7 Q. -- is that correct?

8 A. Yes.

9 Q. Thank you.

10 MR. GARZA: I'll pass the witness, Your

11 Honor.

12 THE COURT: All right. Anything else,

13 Mr. Skurka?

14 MR. SKURKA: Yes, Judge, I have some

15 follow-up here.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION

18 BY MR. SKURKA:

19 Q. Officer, a minute ago there there was some

20 questions about your identification of these females

21 and I want to put the two photographs that have

22 already been admitted into evidence side by side.

23 Clearly they just show I guess the top part and mostly

24 the face; correct?

25 A. Yes, sir.

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1 Q. I'm going to --

2 MR. SKURKA: May I approach, Your Honor?

3 THE COURT: Yes.

4 Q. (BY MR. SKURKA) I'm going to show what's

5 marked 77 and 78. These are purportedly full-length

6 pictures of the two people in question. Do you

7 recognize the two pictures marked 77 and 78?

8 A. Yes, sir.

9 Q. Is that what the females looked like and what

10 were wearing that night?

11 A. That's what I described in my report.

12 Q. And it's the same people that were -- that

13 are shown in these other pictures; correct?

14 A. Uh-huh.

15 MR. SKURKA: I'll tender these two

16 pictures to Defense Counsel and offer them into

17 evidence, 77 and 78.

18 MR. GARZA: No objection, Your Honor.

19 THE COURT: They're admitted.

20 MR. SKURKA: Thank you.

21 Q. (BY MR. SKURKA) Just to clarify, Defense

22 Counsel said you were dead wrong but I think you just

23 didn't have the benefit of seeing the whole

24 full-length pictures and so now I'm going to show them

25 to you and look at your report again and how did you

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1 describe in your report Christina Chavez, what she was
2 wearing?

3 A. Okay. The description I gave of Christina
4 was a Hispanic female, 22 years of age, medium built,
5 shoulder length hair, thick hair, wavy, acne, gray
6 warm-ups, white muscle shirt and white tennis shoes.

7 Q. Okay. The three things I'm going to talk to
8 you about was the acne, the muscle shirt, and what did
9 you say were her pant bottoms?

10 A. Gray warm-ups.

11 Q. Okay. I'm going to put State's Exhibit No.
12 74 right next to 77. Now, looking at that, does that
13 change your mind about who was wearing the muscle
14 shirt and the gray warm-up pants and who was the acne?

15 A. Right, Christina.

16 Q. Let me go a little closer on that. Okay.

17 Isn't it fair to say that that's Christina Chavez --

18 A. Yes.

19 Q. -- according to your record? So you were
20 just mistaken because you didn't have the whole -- I
21 don't know what you call, figure -- full-length
22 picture of it?

23 A. After four years I've only seen the picture
24 once in four years.

25 Q. And I understand, we're not trying to fuss

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1 with you --

2 A. Right.

3 Q. -- we're just trying to make it easier for
4 you to see the whole picture. Okay. So that, for the
5 record, 74 and 77, appear to be Christina Chavez for
6 identification; correct?

7 A. Yes, sir.

8 Q. So I'm going to show you 75 and 78, and again
9 78 appears to be a full-length picture of what was
10 depicted in 74?

11 A. Right.

12 Q. And looking at your report --

13 A. Right.

14 Q. -- who would that have been?

15 A. Yeah, her physical description shows age 30,
16 medium built, long hair, thick, wavy, medium
17 complexion, blue jean shirts, white sports bra.

18 Q. And the person in that photograph marked 78?

19 A. That would be Angela.

20 Q. So just -- and I'm not trying to fuss with
21 you again but this is Angela Rodriguez, the other one
22 is Christina Chavez?

23 A. Right.

24 Q. And you're aware that when the officers
25 who -- the detectives or I.D. takes them to the

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1 station, they take photographs of everything --

2 A. Right.

3 Q. -- and reportedly what they were wearing at
4 the time of the event; correct?

5 A. Right.

6 Q. So would it be fair to say based on your
7 testimony and your memory now this is how they looked
8 that night, both the face and the full length to show
9 what clothes they were wearing?

10 A. Yes, sir.

11 Q. Okay, now that we've got that cleared up I
12 just have one more exhibit to show you and it's been
13 marked as State's Exhibit 76. I'm going to show this
14 to you and ask if you can identify it.

15 A. That's the area in -- the Port area off of
16 Brewster, east Port, Chaparral, Harbor Drive.

17 Q. Is that photograph or that satellite
18 photograph clearly and accurately represent the area
19 and the street and the wooded area off Brewster Street
20 where these ladies were captured?

21 A. Yes, sir.

22 MR. SKURKA: I tender Exhibit 76 to
23 Defense Counsel offer into evidence.

24 Q. (BY MR. SKURKA) While he's looking at that,
25 I'm just going to ask you: Is that essentially the

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1 same kind of picture that you saw earlier through the
2 Google map thing on the stand?

3 A. Basically.

4 MR. GARZA: No objection, Your Honor.

5 THE COURT: It's admitted.

6 MR. SKURKA: I'll display that to the
7 jury.

8 Q. (BY MR. SKURKA) And using your laser pointer
9 can you point out where the Port is, where the Harbor
10 Bridge is, and where the wooded area on Brewster is?

11 A. This is the Port area, Harbor Bridge is right
12 here. Brewster Street is right here, Sam Rankin
13 Street is here.

14 Q. Okay. And just for the record, that's just a
15 physical representation of what we're looking at the
16 satellite pictures earlier?

17 A. Yes.

18 Q. But that does show the area of Brewster
19 Street and Sam Rankin?

20 A. Yes.

21 Q. Thank you. You said there under -- when they
22 were captured both were under the influence of alcohol
23 or drugs or what?

24 A. Combination of both.

25 Q. Okay. How can you tell?

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1 A. The way they act.
 2 Q. Have you had occasion in your 30 years as a
 3 police officer to arrest or recognize the signs of
 4 intoxication, either through alcohol or drugs?
 5 A. Yes, sir.
 6 Q. And did they exhibit those?
 7 A. Yes, sir.
 8 Q. Thank you.
 9 MR. SKURKA: That's all the questions I
 10 have.
 11 MR. GARZA: I have no other questions,
 12 Judge.
 13 THE COURT: You may stand down. May this
 14 witness be excused? Hearing nothing you're excused.
 15 MR. SKURKA: Thank you, Your Honor
 16 THE COURT: Please don't discuss your
 17 testimony with anyone. All right. Call your next
 18 witness.
 19 MR. SKURKA: Robert Chapa, Officer Chapa.
 20 THE COURT: All right.
 21 MR. SKURKA: Mary, do you have anymore
 22 evidence tags?
 23 THE COURT: All right, come forward.
 24 (Oath administered.)
 25 THE COURT: Be seated. All right, Mr.

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1 Skurka, you may proceed.
 2 MR. SKURKA: Thank you, Your Honor.
 3
 4 ROBERT CHAPA,
 5 having been first duly sworn, testified as follows:
 6 DIRECT EXAMINATION
 7 BY MR. SKURKA:
 8 Q. Would you please introduce yourself to the
 9 folks on the jury, please.
 10 A. Senior Officer Robert Chapa.
 11 Q. How are you employed currently?
 12 A. I'm employed with the Corpus Christi Police
 13 Department.
 14 Q. How long have you been with the Corpus
 15 Christi Police Department?
 16 A. For 14 years.
 17 Q. Do you work in any particular division of
 18 C.C.P.D.?
 19 A. I'm currently assigned to the patrol division
 20 and I'm also assigned to the SWAT team.
 21 Q. Have you worked in any other areas or
 22 division of the police department besides the patrol?
 23 A. No.
 24 Q. How long have you been on the SWAT team?
 25 A. Ten years.

156

1 Q. And do you have any specialized training in
 2 the area of the SWAT Team?
 3 A. Just everything the SWAT Team is all about,
 4 all the units is a specialized unit.
 5 Q. Okay. I guess what I'm trying to say is
 6 there's a specialty that you have in the SWAT Team
 7 like, I don't know, demolition or explosives or --
 8 A. I'm a sniper for the team.
 9 Q. Okay. Officer Chapa, I'm now going to direct
 10 your attention back to the time of July 19, 2004, and
 11 ask you if you got involved in a search for some
 12 suspects in three robberies that occurred earlier
 13 during that night?
 14 A. Yes, I did.
 15 Q. Can you tell the folks on jury how you first
 16 got involved in the situation?
 17 A. Well, I was on patrol that night on my
 18 regular patrol duty and there was a kind of a
 19 back-to-back series of calls coming out, a couple of
 20 robberies and a possible homicide and a lot of
 21 officers were changing information on the radio and
 22 dispatchers giving us information on, you know, what
 23 was involved in the three -- they were trying to link
 24 them together so that's the kind of information we
 25 were getting at the time.

157

1 Q. Did you have any information as a type of
 2 suspect or the type of suspect vehicle that was BOLO'd
 3 out to you or the other officers?
 4 A. I remember there were -- they were mentioning
 5 a van was involved.
 6 Q. Do you remember the color of the van or
 7 anything like that?
 8 A. Yeah, it was -- it was a red -- the way they
 9 described it was a red van with a gray stripe. I
 10 never -- I never saw the van in motion so --
 11 Q. Okay, I'm not asking about that, I'm just
 12 saying did you hear over the radio what kind of
 13 vehicle they were looking at?
 14 A. Yes, it was a van.
 15 Q. Okay. What about suspect description, did
 16 you hear any suspect description broadcast over the
 17 BOLO channel?
 18 A. The information I received was two females
 19 and a male were involved.
 20 Q. What was your regular area of patrol that
 21 night?
 22 A. The -- the area that I was assigned to was
 23 the north side of town which is 37 north toward the --
 24 to the ship channel.
 25 Q. Did that include the Port area, then?

158

1 A. Yes.

2 Q. Did you have any -- did you also hear on the

3 radio any indication of a pursuit that took place

4 involving a red van?

5 A. Yes, I did.

6 Q. Now, you were in the part of that pursuit;

7 correct?

8 A. Correct.

9 Q. And for the record, you weren't part of the

10 investigation of the three robbery locations; correct?

11 A. Correct.

12 Q. Your role was, I guess, just be -- to assist

13 in trying to apprehend the folks?

14 A. That's correct.

15 Q. Okay. So tell us where you went. When you

16 hear this call, did you also -- were you aware where

17 Officer Gray lost the van in his pursuit, the area?

18 A. Sure.

19 Q. Where was that?

20 A. It was -- it was actually in the beat area

21 that I as assigned to work so the last information

22 that we got the vehicle was last seen on the north

23 side area of town, and that was my particular area of

24 patrol so I kind of knew the area that, you know, that

25 they had has seen vehicle, the --

159

1 Q. Are you familiar with that area, how -- how

2 long had you patrolled that area before this night?

3 A. At the time about eight-and-a-half years.

4 Q. Eight-and-a-half years. So would it be fair

5 to say you were very familiar with that area?

6 A. Yes.

7 Q. Are you aware if that's a good -- can you

8 tell us what the area is like, is it residential,

9 business, industrial, what?

10 A. That particular area is -- part of it is

11 housing or residential and a lot of it is more of a

12 industrial-type buildings, closer toward the Port.

13 Q. I'm sorry, I didn't mean to interrupt, go

14 ahead. When you heard the pursuit was coming over at

15 your location or your beat, what did you do?

16 A. Well, I wasn't too close to it but I was

17 headed that direction to see if I could intercept or

18 parallel. That's what we do when there's multiple

19 vehicles involved in a pursuit. We don't five, six

20 cars behind a pursuit, we parallel so if they're going

21 to go through the neighborhood, so that's what I was

22 doing, just paralleling in the pursuit, see if they

23 would go down my way.

24 Q. Are you aware of any streets that are like I

25 guess main thoroughfares that a person going into that

160

1 area would have to come in through or leave from?

2 A. Well, the main streets going into the north

3 side area are Staples and Sam Rankin, Winnebago, and

4 Port -- north Port.

5 Q. So where did you head for?

6 A. I started going off Sam Rankin towards the

7 Port, and at that time the officers that were in

8 pursuit of the vehicle had last seen the suspect

9 vehicle in the area of Staples and Winnebago which is

10 in that general area.

11 Q. So how many officers were out there in that

12 north side area of Port Ayers looking around?

13 A. I couldn't give you a number, there was quite

14 a few though.

15 Q. So you said you went down Sam Rankin toward

16 Port. Why that area?

17 A. Well, there's really -- there's not a lot of

18 ways out of that -- that area, you know, those streets

19 dead end at the ship channel.

20 Q. And are you aware of the buildings, fields,

21 locations around that area --

22 A. Yes, sir.

23 Q. -- that you had been patrolling for

24 eight-and-a-half years?

25 A. Yes, sir.

161

1 Q. Are there places around there where a person

2 could hide or a vehicle could be hidden?

3 A. Oh, yeah, definitely.

4 Q. Like what, what do you mean?

5 A. Well, the area that -- closest to the Port

6 there are a lot of industrial buildings. At that time

7 of night everything is closed so it's dark, there's a

8 lot of hiding spots in between the buildings. There's

9 not a lot of general population out there at that time

10 of the night.

11 Q. So as you headed down Sam Rankin towards

12 Port, what happened?

13 A. There was a search for the vehicle. Nobody

14 -- you know, they had last seen vehicle in that

15 general area and then an officer found the van hiding

16 in some -- in some brushy area.

17 Q. Do you recall that officer's name?

18 A. Frakes, I believe.

19 Q. So how did you -- how were you informed of

20 this, him finding the van? Were you there or did you

21 hear it on the radio?

22 A. On the radio, that information was being put

23 on the radio.

24 Q. So what did you do when you found that, did

25 you know the area where the van had been found?

162

1 A. Yes, he -- he gave out a street name of
2 Brewster so I knew where Brewster was and we kind of
3 centralized that area where the van was seen. There's
4 only so many directions, you know, anybody could go at
5 that point so I went to that general area.

6 Q. So tell the jury exactly where you went
7 around Brewster Street, please.

8 A. Well, I started going down Sam Rankin towards
9 Brewster Street and then some further information came
10 out shortly after that.

11 Q. Which was?

12 A. Officer Ralph Vasquez, he got on the radio
13 and I -- I caught a tail end of what his
14 description was on the -- on the radio, but I caught
15 him saying something about he had somebody at gunpoint
16 by the railroad tracks. Now --

17 Q. What did that indicate to you?

18 A. Well, being from the area and indicating
19 where they last -- where they found the van and just
20 getting the information about railroad tracks I knew
21 exactly where Ralph was, you know, it was kind of an
22 isolated area, dirt road.

23 Q. Officer, I'm going to show you a picture
24 that's up on the board and see if you can orient
25 yourself to this photograph. What is that a

163

1 photograph of?

2 A. That's a ship channel.

3 Q. And where is the Harbor Bridge? There's a
4 laser pointer in front of you, I'm sorry, I forgot to
5 tell you. Show us where the Harbor Bridge is.

6 A. It looks like it's right here.

7 Q. Okay. And where is Sam Rankin on this?

8 A. Right here.

9 Q. Okay.

10 MR. SKURKA: Why don't we go a little
11 closer on that if we would, please, Geordie, and
12 center it over backwards.

13 Q. (BY MR. SKURKA) Does that show the area
14 we're talking about?

15 A. Yes, sir, it does.

16 Q. Okay.

17 MR. SKURKA: Go in a little closer,
18 please. Thank you.

19 Q. (BY MR. SKURKA) Okay, using the laser
20 pointer where were you coming from and where did you
21 go to?

22 A. Okay, I was coming from Sam Rankin, this
23 area. I was going north towards the -- towards the
24 Port Channel.

25 Q. Okay. So for the record, you're showing from

164

1 the bottom of the photograph toward the top?

2 A. Yes.

3 Q. And where did you -- where was Officer
4 Vasquez calling you from?

5 A. Okay. Officer Vasquez was -- I mean,
6 there's -- there's some railroad tracks going right
7 down this area so he was right in this area right
8 here.

9 Q. So he was not on the road itself?

10 A. There's a dirt road that runs in here and
11 that's the road that led me to him. There's a dirt
12 road.

13 Q. Okay. Let's go back and tell the jury what
14 happened now that we're oriented to where it happened.
15 Tell the jury what you saw when you arrived at that
16 location off Sam Rankin and I guess the railroad
17 tracks?

18 A. Yes.

19 Q. Tell the jury what you did.

20 A. Okay. Well, as I was approaching -- well,
21 when I was going to the area I knew that Ralph was by
22 himself and really nobody knew -- they didn't have
23 a clear idea where he was so when I started heading to
24 where I, you know, thought that he would be I saw him
25 and he was out of his unit and he had his weapon drawn

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1 out on two females and I noticed one female was
2 standing up and one was sitting down and, you know, I
3 got there as quickly as I could and I exited my
4 vehicle and started approaching the two females at a
5 safe distance just to back up the officer.

6 When I exited the vehicle I heard Ralph --
7 I'm sorry, Officer Vasquez giving commands to get on
8 the ground, get on the ground, and the female standing
9 up was not complying with those orders.

10 Q. So what did you do?

11 A. Well, I started -- I started doing, you know,
12 an officer safety-type approach, you know, coming
13 toward -- to the side of the female and she was
14 yelling out, she had her arms spread out just like
15 this yelling "shoot me, shoot me," and Ralph continued
16 to give her commands to get to the ground and she
17 wasn't complying so I was getting closer to her, she
18 turned around and gave us her back as if she was going
19 to maybe attempt to flee again and -- so I started
20 approaching her faster. I started closing that
21 distance at a faster pace and she turned back around
22 facing towards us and then I took her to the ground.

23 Q. How did you do that?

24 A. I just physically took her to the ground.

25 Q. Like grabbed her, tackle her, or what?

166

1 A. Almost like a tackle, I guess you would say.
 2 Q. Now, did you -- did the Officer Vasquez have
 3 his gun drawn?
 4 A. Yes.
 5 Q. Did you have your gun drawn?
 6 A. I don't believe I ever did. You know,
 7 Officer Vasquez had his weapon on the two suspects so
 8 my job at that point would be to, you know, take them
 9 to custody.
 10 Q. So, essentially you were backing up Officer
 11 Vasquez who was covering you?
 12 A. Yes.
 13 Q. I have another photograph that's a closer up
 14 of 68. Now, Officer, and that's purportedly the
 15 wooded area off Brewster Street and Officer Vasquez
 16 has told us that the two Xs represent the area where
 17 the women were captured; is that correct?
 18 A. That's correct.
 19 MR. SKURKA: Okay. Go down to the bottom
 20 left of that, Georgie, please. No, bottom left.
 21 There you go.
 22 Q. (BY MR. SKURKA) Where were you -- how did
 23 you get to that area? Can you show us with the laser
 24 pointer --
 25 A. Sure.

167

1 Q. -- what road or whatever you went down?
 2 A. Okay. This down here is Sam Rankin. This --
 3 this way is leading towards the Port. So I was coming
 4 down Sam Rankin and I turned into the dirt road and
 5 Ralph was in the general area right here -- I'm sorry,
 6 Officer Vasquez was.
 7 Q. What is this over on this side?
 8 A. It's like a -- it was like just a caliche
 9 paved area, you know, storing stuff there I think at
 10 one time.
 11 Q. And what is this along here?
 12 A. It's a railroad track.
 13 Q. So it's your recollection that they were
 14 found around this area?
 15 A. That's correct.
 16 Q. Now, at the time you didn't see them by the
 17 ditch or in the ditch; correct?
 18 A. That's correct.
 19 Q. Officer Vasquez would be the first one to
 20 spot them?
 21 A. Yes, sir.
 22 Q. After you took them to the ground what
 23 happened?
 24 A. I secured the -- the female that was standing
 25 up and I -- the one I took to the ground was -- we

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1 secured her and arrested her and then -- and Officer
 2 Vasquez approached and we arrested the other female.
 3 Q. I'm going to switch this -- this angle and
 4 show you another angle using the Google maps and I'm
 5 going to ask you to look at that, please. It's going
 6 to come up in a second.
 7 Okay. This is purportedly Sam Rankin Street
 8 and you said you were going toward the Port this way,
 9 correct?
 10 A. That's correct.
 11 Q. Does that show the area or the location where
 12 the people were found?
 13 A. Yes, it does.
 14 Q. Show us, please, with the laser pointer.
 15 A. Right in this area right here.
 16 Q. Okay. And does that photograph show the -- I
 17 guess the caliche road or the dirt road you were
 18 talking about?
 19 A. Yes, this in here, this were also in here.
 20 Q. Okay, you're going to have to talk louder.
 21 A. Oh, I'm sorry, this section right here as
 22 well as this -- this section over here.
 23 Q. Now, can you -- is this the view you had when
 24 you first arrived at the scene looking back down in
 25 this way or over here?

169

1 A. Well, there was a distinctive dirt road and
 2 this may have been blown over by now. It -- it
 3 appears to be this -- you know, this dirt road right
 4 here.
 5 Q. Okay. So it looks like it's this road.
 6 A. Correct.
 7 Q. And I don't want to -- you kind of called it
 8 the caliche road?
 9 A. Yes.
 10 Q. Okay. So that's the view you had and the
 11 area where they were located, correct?
 12 A. Yes, sir.
 13 Q. Now, did you find the male subject that you
 14 were looking for?
 15 A. No, sir, I did not.
 16 Q. When you were assisting Officer Vasquez, did
 17 you see any male running around -- away from that
 18 area, too?
 19 A. No, sir.
 20 Q. What else is around there? If you were to go
 21 further down the back end of this --
 22 MR. SKURKA: And let's get that other
 23 photograph back up. No, never mind, just go ahead and
 24 go back in there.
 25 Q. (BY MR. SKURKA) What is back there?

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1 A. Where is that, sir?

2 Q. Well, what I'm trying to say is what's past
3 here? We can't say from this angle and I'm going to
4 get the aerial photograph. I just want to know if
5 they were captured over here in this area where the
6 two Xs were that you saw a second ago?

7 A. Yes, sir.

8 MR. SKURKA: That's good. Thank you,
9 Geordie.

10 Q. (By MR. SKURKA) If this is Brewster Street
11 over here and Sam Rankin is on the bottom and they're
12 over here and you came down this way, what is over
13 here on this side? If somebody was to run away where
14 could they go, what's over here?

15 A. Okay, well, there continues to be wooded area
16 but I don't think you can see in this picture but
17 there is a large -- I guess a -- I'm at a loss for
18 words here -- like a drainage ditch, there you go, a
19 drainage ditch that runs all the way to the Port, all
20 the way out. I think it ends in Winnebago, maybe a
21 little further than that.

22 Q. So it's a water way?

23 A. Yes.

24 Q. Okay. If you're over here by Sam Rankin in
25 this part and you're looking down this way could

171

1 you -- and you saw these people here, could you see
2 people over here from this angle from over here?

3 A. From here to there?

4 Q. Right.

5 A. Probably not, especially with the lighting
6 conditions as well.

7 Q. What were the lighting conditions?

8 A. Very dark. The only lights out there were
9 the lights to our units, our police cars.

10 Q. Okay. So would it be fair to say that
11 anybody looking from this end down the edge of the I
12 guess tree line or brush line would only be able to
13 see about this far and anything over this way they
14 would not be able to see?

15 A. That's correct.

16 Q. Okay. So could you see anything down
17 there --

18 A. No, sir.

19 Q. -- over here?

20 A. No.

21 Q. So is it conceivable somebody could come --
22 just be a few feet over on this side and over here and
23 not be seen by the officer down here?

24 A. That's correct.

25 Q. Okay. Did you assist the other officers

172

1 after -- after Angela Rodriguez and Christina Chavez
2 were captured? Did you assist the officers in looking
3 for the other suspect, John Henry Ramirez?

4 A. It was several hours later that I assisted in
5 this portion of it as I was -- I was tied up with one
6 of the females.

7 Q. Tell us what you did.

8 A. Well, from there, you know, we secured those
9 females, mirandized them, and then being that there
10 was a -- an aggravated robbery that had just occurred
11 prior to that I transported Angelia Rodriguez to
12 another location where Officer Flores was and -- you
13 know, to have her positively identified by one of the
14 victims over there.

15 Q. So you were tied up taking one of ladies back
16 over to the scene at the Whataburger, correct?

17 A. That's correct.

18 Q. Later on, were you aware of any other
19 officers continuing the search around here for
20 Hispanic male that was supposed to be with these two
21 females?

22 A. Oh, yeah, they had an extensive search going
23 on at that time.

24 Q. How long did they search?

25 A. Till the next day till sunrise at least and

173

1 then to that day.

2 Q. How long -- you said you went back out there
3 later to help them?

4 A. My shift didn't end till 7:30 in the morning
5 and I can't even recall, I may have worked late that
6 morning.

7 Q. Did you go back to this area and help them
8 search?

9 A. Yes.

10 Q. And was there any -- what was the results of
11 the search for the other Defendant, John Henry
12 Ramirez?

13 A. Well, there was nothing, nothing came up,
14 unable to find him.

15 Q. Do you recall what the ladies -- the girls
16 were wearing, the ladies were wearing when they were
17 captured and the condition of their clothes?

18 A. One of them was wearing like a white muscle
19 shirt, like an undershirt, under muscle shirt; and the
20 other one was wearing like a white halter top, I
21 think, something like that.

22 Q. Like a white halter top?

23 A. Yeah.

24 Q. Did you notice any other conditions of their
25 clothing?

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1 A. The female that was wearing the white muscle
2 shirt had blood on her shirt, I recall that. Other
3 than her clothing I guess just kind of looked -- a lot
4 of laughing going on, a lot of giggling, talking back
5 and forth.

6 Q. Did they appear to be intoxicated or under
7 the influence of drugs to you?

8 A. Oh, definitely, yes.

9 Q. I'm sorry?

10 A. Definitely, yes.

11 Q. Drugs or alcohol, or can you tell?

12 A. I couldn't tell.

13 Q. Once they were identified you mentioned that
14 when you first came to them one was complying with Mr.
15 Vasquez' order and one was not. Which is the one that
16 you had to tackle that wasn't comply with the orders?

17 A. Angela.

18 Q. That would be Angela Rodriguez?

19 A. Correct.

20 Q. Thank you, Officer Chapa.

21 MR. SKURKA: No other questions.

22 THE COURT: Cross?

23 MR. GARZA: Judge, I don't think I have
24 any questions of Officer Chapa.

25 THE COURT: All right. You -- may this

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1 witness be excused?

2 MR. SKURKA: Yes, Your Honor.

3 THE COURT: All right, you're free to go
4 about your business. Do not discuss your testimony
5 during this trial. All right, call your next witness.

6 MR. SKURKA: Officer Perez.

7 THE COURT: Come forward.

8 (Oath administered.)

9 THE COURT: Be seated. You may proceed.

10
11 FRANK PEREZ,
12 having been first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SKURKA:

15 Q. Please state your full name for the record.

16 A. My name is Frank B. Perez.

17 Q. How are you currently employed?

18 A. I'm employed with the City of Corpus Christi
19 Police Department.

20 Q. How long have you been so employed?

21 A. 15 years.

22 Q. Do you work in any particular division?

23 A. Yes, sir, I work with the bike patrol.

24 Q. How long have you been in the bike patrol?

25 A. I've been in bike patrol for about four

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1 years.

2 Q. Before that, what did you do?

3 A. I was in the uniformed division patrol
4 officer in a unit.

5 Q. For how long?

6 A. Pardon me?

7 Q. How long were you in the patrol division?

8 A. I was in the patrol division for about 11
9 years.

10 Q. 11 years. What do your current duties
11 entail?

12 A. Entail I patrol on the bicycle to northwest
13 part of the city.

14 Q. Do you go with the partner or by yourself?

15 A. With a partner.

16 Q. Officer Perez, I want to direct your

17 attention back to July 19, 2004, and ask you if you
18 had occasion to assist in a search over off the area
19 of Brewster Street by the Port for some suspects who
20 were initially suspected in some robberies?

21 A. Yes, sir.

22 Q. Can you tell the jury how you first got
23 involved in the case?

24 A. On this particular day when we came in, my
25 supervisor ordered us to go out to the area in order

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1 to attempt to look for suspects or evidence. During
2 the time when the incident had occurred it was pretty
3 dark so they wanted us to go out there and kind of
4 look over the area again in case someone was missing
5 the evidence while they were attempting to look
6 through the area.

7 Q. Okay. You're dropping your voice at the end
8 of your sentence.

9 A. I'm sorry, let me move up here a little bit.
10 At that particular time we were ordered by our
11 supervisor to go out there to look at Sam Rankin,
12 Brewster, in that area cause some suspects had
13 abandoned a vehicle there and it was during the night
14 so it gets pretty dark out there so they wanted us to
15 go out there and take a look and see if we could
16 possibly contact the suspects and-or evidence possibly
17 in the area.

18 Q. Can you describe the area for jury, please.

19 A. The area is a pretty vegetated, there's a lot
20 of trees and a lot of grass growing. Like I said,
21 it's pretty dark out there.

22 Q. Were you familiar with that area?

23 A. We've patrolled that area on occasion.

24 Q. As you were going to that area, what, if
25 anything, did you discover?

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1 A. While looking through the area I observed a
2 black sandal laying in the grassy area close to --
3 away from the area where the suspect vehicle had been
4 abandoned. This particular sandal had blood on it.
5 So I immediately contacted my supervisor who in turn
6 got a hold of an I.D. tech to go out there and
7 process the area and take control of the sandal that
8 was possibly abandoned by the suspects.

9 Q. Can you tell the folks on the jury why you
10 don't pick that up and collect it, why you have to
11 call an I.D. tech?

12 A. I don't want to touch it because in case
13 there was evidence on there I didn't want to taint it
14 in any way.

15 Q. That's just typical procedure; correct?

16 A. Yes, sir, it is.

17 Q. I'm going to show you what's already been
18 admitted into evidence as State's Exhibit No. 64. Do
19 you recognize that area?

20 A. Yes, sir.

21 Q. Can you tell us what that is, please.
22 There's a laser laser pointer in front of you, you
23 don't have to get up and show it.

24 A. 700 block of Brewster here. This area right
25 here is kind of like an area for them to -- the

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1 workers out there in order to lay out -- lay their
2 equipment. I believe around here in this area there's
3 kind of water.

4 Q. Okay. And is that -- does that photograph
5 show the area where you found the sandal, or do I need
6 to get another one?

7 A. This part would be about this area right here
8 where I located the sandal.

9 Q. Okay. I'm going to show you another
10 photograph. This is No. 67. Does that show the area
11 where you're searching?

12 A. Yes, sir. Actually, we were all throughout
13 this area right here and we came out over here and I
14 was able to locate the sandal around this area.

15 Q. Were you there when the women were captured
16 or the van was found?

17 A. No, sir.

18 Q. Do you know where Officer Vasquez found the
19 women?

20 A. No, sir, offhand I don't.

21 Q. Okay. I would like to take this up to you --
22 I want to have my assistant go up there and show you
23 this photograph and would you draw in a circle to show
24 where the sandal was found.

25 A. (Witness complying.)

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1 MR. SKURKA: May I publish that to the
2 the jury, Judge? That's already been admitted in
3 evidence.

4 THE COURT: Yes.

5 Q. (BY MR. SKURKA) I'm going to show this to
6 the jury and you've indicated where the sandal is
7 found?

8 A. Yes.

9 Q. And is that little red -- that little blue
10 dot where the sandal was found?

11 A. Yes, sir, uh-huh.

12 Q. While I'm doing this, I would like you to
13 look at the next series of photographs, and I'm going
14 to write under where you put the -- put the sand on
15 I'm going to put the word sandal, okay?

16 A. Yes, sir.

17 Q. Have you looked at that next series of
18 photographs?

19 A. Yes, sir.

20 Q. And for the record, what are they called?

21 MR. SKURKA: What are they, Geordie, I
22 forgot?

23 MR. SCHIMMEL: 79 through 84.

24 Q. (BY MR. SKURKA) 79-84. Do these photographs
25 fairly and accurately represent the scene as it was

181

1 that night?

2 A. Yes, sir.

3 Q. Do they show the area where the sandal was
4 found?

5 A. Yes, sir.

6 Q. And does this show the actual sandal itself
7 that looks like maybe taken at the lab?

8 A. Yes, sir.

9 Q. Or at the police department?

10 A. Uh-huh.

11 MR. SKURKA: Judge, I'll tender these
12 to Defense Counsel and offer them into evidence.

13 MR. GARZA: No objection, Your Honor.

14 THE COURT: They're admitted. What
15 numbers are those? What numbers are they?

16 MR. GARZA: 79 through 84, your Honor.

17 THE COURT: Okay.

18 MR. SKURKA: 79 through 84, Mary.

19 Q. (BY MR. SKURKA) Let's start with the ones
20 that are out in the field. I show you what's been
21 marked 79.

22 MR. SKURKA: Can you get the lights?
23 Where is the Frank? Thank you, sir.

24 Q. (BY MR. SKURKA) Okay. What does that show,
25 State's Exhibit 79?

182

1 A. It's the sandal laying on the ground.

2 Q. Can you point to it using a laser point where

3 the sandal is found.

4 A. Yes, sir, the sandal is here.

5 Q. Is that you in the picture?

6 A. No, sir, that's another officer.

7 Q. That's who?

8 A. Another officer, another bike officer.

9 Q. Okay. Is that the kind of dirt road or

10 whatever you said?

11 A. Yes, sir, it's -- you could see where a lot

12 of vehicles go through here. They were doing some

13 construction work and lot of vehicles were going

14 through here and they have an area where they lay out

15 their equipment that they're using.

16 Q. And what's that part behind this officer?

17 A. This one right here? It's like a creek of

18 some sort that runs alongside.

19 Q. And that was shown on the other satellite

20 picture; correct?

21 A. Yes, sir.

22 Q. Two other photographs, 80 and 81, what do

23 those depict?

24 Q. Again, that's the sandal laying on the deck

25 right here?

183

1 Q. And the next one?

2 A. The sandal again.

3 Q. Now, what caught your attention about this

4 particular sandal?

5 A. This sandal had blood on it.

6 Q. Can you remember what part of the sandal had

7 blood on it?

8 A. If I remember correctly it was -- a lot of

9 blood this sitting here where the foot is actually.

10 Q. Where the foot would rest?

11 A. Yes, uh-huh.

12 Q. I have some other photographs, 82, 83 and 84.

13 What are they?

14 A. The sandal itself again.

15 Q. And the last one?

16 A. The sandal.

17 Q. Those are actually photographs of the same

18 sandal but they're not out in the field; correct?

19 A. No, sir.

20 Q. And that would show both the top and the

21 bottom of the sandal; correct?

22 A. Correct.

23 Q. Who was the one that actually came out and

24 collected the sandal, if you recall?

25 A. It was I.D. tech Hopkins.

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1 Q. Hopkins?

2 A. Yes, sir.

3 Q. And so it was turned over to the I.D.

4 department?

5 A. Yes, sir, they came and turned -- took

6 photographs and took it into custody.

7 Q. And so the I.D. technicians took it and you

8 haven't seen it since then?

9 A. No.

10 Q. Thank you.

11 MR. SKURKA: I'll pass the witness at

12 this time.

13 THE COURT: Cross?

14 MR. GARZA: Yes, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. SKURKA:

17 Q. Officer Perez, I notice that there's a ruler

18 of some sort on that sandal?

19 A. Yes, sir.

20 Q. Do you know the exact measurement or was it a

21 small -- is that a pretty small sandal, or do you

22 remember?

23 A. I can't say if it was pretty small, I really

24 don't remember to be quite honest with you.

25 Q. Is that like about a six-inch ruler or how

185

1 big is it?

2 A. I can't really tell.

3 Q. You don't remember?

4 A. No, sir.

5 Q. Okay. Could you tell if it was a female's

6 sandal or was it coed or a man's sandal?

7 A. It looked possibly coed.

8 Q. Coed, okay. And this was the next day during

9 daylight hours?

10 A. I was -- well, I don't know exactly what time

11 the incident took place but it was on the 19th, I

12 believe.

13 Q. On the 19th?

14 A. Yes, sir, uh-huh, at 10:30 hours in the

15 morning.

16 Q. According to your report?

17 A. Yes, sir.

18 Q. Okay.

19 MR. GARZA: Pass the witness, Your Honor.

20 THE COURT: Anything else?

21 MR. SKURKA: Yes, Judge. May I approach?

22 THE COURT: Yes.

23

24

25

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1 REDIRECT EXAMINATION

2 BY MR. SKURKA:

3 Q. We have what's marked State's Exhibit No. 85.

4 Do you recognize what this yellow thing is on the --

5 A. Yes, sir, that's a property tag.

6 Q. It's a property tag. And who signed that

7 property tag?

8 A. Hopkins.

9 Q. Okay.

10 A. I.D. tech Hopkins.

11 Q. And does it identify the contents of State's

12 Exhibit No. 85?

13 A. Yes, sir, the property tag indicates one

14 black and white size 5 sandal.

15 Q. And does it indicate the location where it

16 was found?

17 A. 1902 Baldwin.

18 Q. Okay. He didn't find it in 1902 Baldwin, did

19 he?

20 A. No, sir.

21 Q. Okay. And is Fletcher Hopkins still with us?

22 A. No, sir, unfortunately he passed away.

23 Q. I'm going to ask you to open what's been

24 marked as State's Exhibit No. 85 and not destroy the

25 seals part, just open the parts that haven't been

187

1 sealed.

2 A. This part here?

3 Q. Yes. And retrieve the content of State's

4 Exhibit No. 83, please -- 85, I'm sorry.

5 A. You want me to destroy the seal?

6 Q. You can open it, just try not to tear up the

7 seal is why I gave you the scissors.

8 A. Okay. I'm not very good at this.

9 Q. They seal them up pretty good, don't they?

10 A. Oh, yeah.

11 Q. For record, State's Exhibit No. 85 is a paper

12 sack, and what does it contain?

13 A. It contains --

14 Q. Can you bring it out, please.

15 A. It's a sandal.

16 Q. Is that the sandal that you found out there

17 at the scene?

18 THE COURT: There's some gloves if you

19 want to use them.

20 A. Yes, sir, yes.

21 Q. (BY MR. SKURKA) And that's the same as

22 depicted in the photograph and that you found out in

23 the grass. That's the actual sandal, is it not?

24 A. Yes, sir, it is.

25 Q. Can you tell by looking at the sandal what

188

1 size it is or if it's a male or a female sandal?

2 A. Indicates at the bottom that it's a size 5,

3 seems to be pretty small statute. Again, you really

4 can't tell if it's coed.

5 Q. Okay. And can you demonstrate to the jury

6 where -- the area you saw the blood on it. Hold it up

7 for the jury to see.

8 A. The area of the blood that I saw was right

9 here, underneath the foot.

10 Q. For the record, you're pointing to the top

11 part of the sandal where I guess the toes would be?

12 A. Yes, sir.

13 Q. That's where you saw?

14 A. Uh-huh.

15 Q. How much blood was there?

16 A. It was a good amount.

17 Q. Okay. You can't see it right now very well,

18 can you --

19 A. No, sir.

20 Q. -- after four years? Okay.

21 MR. SKURKA: That's all the questions I

22 have, Judge.

23 THE COURT: Okay. Anything else?

24 MR. GARZA: No.

25 MR. SKURKA: I'm sorry, did I offer it?

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1 State's Exhibit 85 has been admitted?

2 THE COURT: I don't think so. Are you

3 moving to admit it?

4 MR. SKURKA: We move to admit it.

5 MR. GARZA: No objection, Your Honor.

6 THE COURT: It's admitted. Nothing

7 else?

8 MR. GARZA: No.

9 THE COURT: All right, you're free to go

10 about your business.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Please don't discuss your

13 testimony with anyone --

14 THE WITNESS: Yes, sir.

15 THE COURT: -- while the trial is going

16 on. All right, call your next witness.

17 MR. SKURKA: Officer Casares.

18 (Oath administered.)

19 THE COURT: You may proceed.

20 MR. SKURKA: Thank you, Your Honor.

21

22

23

24

25

190

1 VICTOR CASARES,
 2 having been first duly sworn, testified as follows:
 3 DIRECT EXAMINATION
 4 BY MR. SKURKA:
 5 Q. Would you please introduce yourself to the
 6 folks on the jury.
 7 A. My name is Victor Ray Casares.
 8 Q. How are you currently employed?
 9 A. I am a police officer with the Corpus Christi
 10 Police Department.
 11 Q. How long have you been an officer employed by
 12 Corpus Christi Police Department?
 13 A. Seven years for this department.
 14 Q. Have you had any law enforcement experience
 15 before your seven years with the Corpus Christi Police
 16 Department?
 17 A. Yes, I was ten years with the Nueces County
 18 Constables's Office, Precinct One, which is the
 19 Constable's Office in the courthouse.
 20 Q. Who are the constables you worked under?
 21 A. Worked under Johnny Alaniz, Natie Alaniz, and
 22 Rudy Casares, Constable Rudy Casares. He's currently
 23 a constable.
 24 Q. So all together would it be fair to say you
 25 have 17 years in law enforcement experience?

191

1 A. That's correct.
 2 Q. Tell us where you work now or what area of
 3 division you work now, please.
 4 A. I'm assigned to the uniform division, I work
 5 patrol.
 6 Q. How long have you been in patrol?
 7 A. All seven years.
 8 Q. Do you have any military experience in your
 9 background?
 10 A. I have some Coast Guard Reserve experience.
 11 Q. How long have you been in the Coast Guard
 12 Reserve?
 13 A. I was in the reserves for eight years.
 14 Q. I want to direct your attention back to July
 15 19th, 2004, and ask if you were on duty that night.
 16 A. Yes.
 17 Q. Where were you working that night?
 18 A. I was working on the south side of town. I
 19 worked out of the Corona substation at that time and I
 20 was on patrol on that side of town, Staples, Airline
 21 area.
 22 Q. At that time, did you have occasion to hear
 23 radio traffic or BOLO calls in reference to a robbery,
 24 homicide that took place at Times Market and two other
 25 aggravated robberies that took place at the

192

1 Whataburger on Staples Street and a Whataburger on
 2 Texan Trail and Alameda?
 3 A. Yes.
 4 Q. You can keep track on all that stuff even
 5 though you're on the other side of town?
 6 A. Yes, because when they broadcast out they
 7 broadcast out a major crime to all channels so any
 8 district that you're in you can hear it over the
 9 radio.
 10 Q. What did -- were you aware of any pursuit
 11 that took place of those suspects or vehicle they were
 12 driving?
 13 A. Yes, and that's what brought me from the
 14 south side to downtown was the -- the BOLO of pursuit.
 15 I had heard that. The JET Unit, which is the Juvenile
 16 Enforcement Team, was in pursuit of a vehicle fitting
 17 the description of the robbery and the murder and --
 18 and that's when I came to this side of town to assist.
 19 Q. So were you told to go over to that side of
 20 town or was it just kind of routine procedure you go
 21 over there to help out?
 22 A. It's just routine procedure, you just let the
 23 the dispatcher know I'm in route to that location to
 24 assist.
 25 Q. Just to make the record clear, you didn't

193

1 have any part of the actual investigation of those
 2 three crimes or the pursuit; correct?
 3 A. That's correct.
 4 Q. All you did was go to help find the suspect
 5 or the suspect vehicle?
 6 A. That's correct.
 7 Q. As you went over to that north side of town
 8 where the pursuit was taking place or ending, what, if
 9 anything, were you hooking for?
 10 A. I was looking for a full-sized van, I heard
 11 red or maroon color was the description, and it was
 12 last seen in the north side of town and the BOLO had
 13 mentioned one male and at least one female inside the
 14 van.
 15 Q. Were you aware during the time you were
 16 either going over there or arriving at that area that
 17 the van had been located and some of the suspects had
 18 been located?
 19 A. Yes.
 20 Q. How many of suspects had been located that
 21 you knew about?
 22 A. Well, the first thing that I heard was that
 23 the van was spotted by a fellow officer that works in
 24 the same shift and so I began to drive down there. I
 25 saw where the van was, and that's when I began to park

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1 my vehicle and I got off on foot to search for the
2 suspects.

3 Q. Can you tell us specifically where you got
4 out to search?

5 A. I parked my vehicle in the -- in the Brewster
6 Street and at the end of Brewster Street right at --
7 was it Stroman at that intersection.

8 Q. And what did you do then?

9 A. I began to walk around on foot around the
10 wooded area as it was being surrounded by officers.

11 Q. I'm going to show you what's been marked
12 State's Exhibit 66 and ask if you recognize that.

13 A. Yes.

14 Q. What is that area?

15 A. That's the brushy area where this crime scene
16 ended up at. The vehicle was found there.

17 Q. There's a laser pointer in front of you.
18 Maybe that will help you.

19 A. Okay.

20 Q. First of all, tell us where Brewster Street
21 is.

22 A. This right here is Brewster Street.

23 Q. And where was the van located?

24 A. Somewhere in -- in this area. It had driven
25 into the woods so you could hardly see it.

195

1 Q. So for the record, you're talking about kind
2 of toward the middle of the brushy area?

3 A. Right, towards the middle of the brushy area.
4 It was in -- in the brush about a hundred feet or so.

5 Q. As you arrived at the location, did you --
6 were you aware that the females had been apprehended
7 already?

8 A. No.

9 Q. Had they been apprehended already?

10 A. No.

11 Q. Where were you?

12 A. I parked my vehicle on this side, at the
13 corner of -- off the dirt right off of the side of
14 Stroman man and Brewster here and then I began to walk
15 on foot.

16 Q. Okay. What -- we're looking at State's
17 Exhibit 66. Okay. As you were walking down that road
18 show us where you went and what you were looking for.

19 A. I was looking in the brush with my
20 flashlight. Everything was extremely dark so I just
21 was walking around looking for any movement down the
22 road, all around, but mainly hooking into the brushy
23 area since I saw the vehicle had been located over
24 here, the -- we figured that somewhere in this brushy
25 area had to have been where the suspects are either

196

1 still are or were escaped from.

2 Q. As were you looking for them, what did you
3 find?

4 A. As I was walking around the corner I heard
5 that the -- the officers had located the females and
6 so they had said by the ditch so I began to run to
7 this area to see if I can assist the officers and take
8 them into custody but at that point they were already
9 enough officers giving commands and taking control of
10 the situation.

11 Q. You talking about in the capture of the
12 women?

13 A. Exactly.

14 Q. Okay. I'm going to show you what's been
15 marked as State's Exhibit 68. That's a same scene but
16 from a different angle, and that would be Brewster
17 Street on the right, I believe.

18 A. That's right.

19 Q. And so where were you at?

20 A. About over here.

21 Q. Okay. Officer Vasquez and Chapa have just
22 testified that these two Xs represent approximately
23 the area where the two women were apprehended. You
24 said that you were coming down this road.

25 A. Right.

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1 Q. What, if anything, did you find along the
2 tree line if you -- when you're coming down the road?

3 A. Well, as these females were being apprehended
4 I began to look into the wooded area more closely as I
5 figured that they must have come out through here
6 since the van was located over here somewhere so as I
7 began to look through the brush line I discovered a
8 white towel, like a hand towel.

9 Q. Was it in the open area or was it in the
10 brush?

11 A. It was in the brush, in the grassy -- on the
12 grass along the brush line.

13 Q. I'm going to have you mark on the diagram
14 where exactly you found it. I'm sorry, not on the
15 diagram, on this picture. I'm going to show you
16 marked State's Exhibit 66 and I would like you to draw
17 a circle or an X where you found the rag and just put
18 like a circle or X and then put rag next to it.

19 A. Okay.

20 Q. Is that a better picture or one of the other
21 pictures better?

22 A. No, that's good.

23 A. Let me show that to the jury now. You've
24 drawn a circle and then the word rag right by there.

25 THE COURT: Are you moving to introduce

198

1 this?

2 MR. SKURKA: I'm sorry, it's already been
3 introduced, Judge.

4 THE COURT: Oh, it has, okay.

5 THE WITNESS: Yes.

6 Q. (BY MR. SKURKA) So that's the approximate
7 area where you found it.

8 A. Approximate.

9 Q. Approximate. Okay, I'm going to show you a
10 series of photographs now marked 86, 87, 88 and 89,
11 and ask you to look look at those to yourself.

12 A. (Witness complying.)

13 Q. Have you recognized what's depicted in
14 State's Exhibit 86 through 89?

15 A. Yes, that was the rag that I found.

16 Q. Is this a fair and accurate representation of
17 rag as you found it in the grass?

18 A. Yes.

19 MR. SKURKA: I show 86 through 89 to
20 Defense Counsel and offer them into evidence.

21 MR. GARZA: No objection, Your Honor.

22 THE COURT: All right, they're
23 admitted.

24 Q. (BY MR. SKURKA) Now that they're admitted I
25 want to show them to you in the sequence and we'll

199

1 start with 86. Show us what that picture depicts.

2 A. This is the rag right here that I found.

3 Q. And 87?

4 A. A more close-up view of the rag.

5 Q. And 88?

6 A. An even closer view of the rag and you can
7 see the -- the grass had been mashed down.

8 Q. And 89?

9 A. This is just a real close-up of the same rag,
10 the same position.

11 Q. When you saw this rag, what made you catch --
12 what caught your attention with it?

13 A. Well, the first thing was the blood.

14 Q. How much blood was on it?

15 A. It was enough blood that you could see it
16 as -- it had different spots that had blood on it but
17 the -- most importantly is the fact that the color of
18 the blood appeared fresh, it didn't have the -- that
19 old, non-glossy look that old blood has when it dries.
20 This one was still fresh on the rag, it wasn't cracked
21 or hazed over.

22 Q. Is that a rag that's a rag by itself or
23 appeared to be torn off of something else?

24 A. When I just looked at it, it was just like
25 this, kind of looked like a hand towel.

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1 Q. And could you see any other things around the
2 towel or rag that indicated how long it had been
3 there?

4 A. Well, the -- the fact that the grass around
5 it had been meshed down, it was pretty clear to me
6 that someone had just mashed that grass down and threw
7 that towel there very recently.

8 Q. What made you think that?

9 A. Just because the grass didn't look like that
10 on the other parts where -- of the other areas that we
11 were searching it, it was still standing up and this
12 area it had looked like someone had just passed
13 through there and then the towel being in the path of
14 the smashed grass just gave me the impression that
15 someone had just been there recently.

16 Q. Was that area fairly overgrown?

17 A. Yes.

18 Q. Was there anything over -- I don't know how
19 to say this, grass covering it or weeds coving this
20 rag?

21 A. No.

22 Q. Did you find the male suspect that they were
23 looking for?

24 A. No.

25 Q. Did you continue to look after you found the

201

1 rag for him?

2 A. Yes.

3 Q. Was he ever located that night or the early
4 morning hours to your knowledge?

5 A. No, sir.

6 Q. What -- who came and collected the rag?

7 A. It was I.D. Tech Prebul.

8 Q. And why was that?

9 A. We just called for I.D. tech and they send us
10 one out to collect the evidence.

11 Q. So you didn't retrieve this rag or take
12 custody of it or anything?

13 A. That's correct.

14 Q. But that is an accurate photograph of it?

15 A. Yes.

16 MR. SKURKA: That's all the questions I
17 have then, Judge.

18 THE COURT: Cross?

19 CROSS-EXAMINATION

20 BY MR. GARZA:

21 Q. Mr. Casares, when you were out there looking
22 and searching, the consequence of your duties that
23 night, you didn't have any idea who had dropped that
24 in there or placed that there --

25 A. No, sir.

202

1 Q. -- did you? And you really didn't have any
2 idea how long it had been there, did you?
3 A. Not as far as an actual time, no.
4 Q. Okay.
5 MR. GARZA: That's all I have, Your
6 Honor.
7 THE COURT: Anything else?
8 MR. SKURKA: No, Your Honor.
9 THE COURT: You may stand down. You're
10 free to go about your business.
11 THE WITNESS: Thank you.
12 MR. SKURKA: This next witness is going
13 to take a little bit.
14 THE COURT: Let's take a break.
15 MR. SKURKA: This may be a good time to
16 take a break.
17 THE COURT: All right, all rise for the
18 jury.
19 (Jury exits courtroom.)
20 (Short recess.)
21 (Out of the presence of the jury.)
22 THE COURT: Mr. Skurka, I understand that
23 this next witness you're probably going to introduce
24 some photographs of graphic nature.
25 MR. SKURKA: They are, Judge. I'll let

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1 you look at them and decide.
2 THE COURT: Let's take a look so we
3 can -- once we get the jury in we can continue.
4 MR. SKURKA: Good idea, Judge.
5 THE COURT: Why don't we do this, why
6 don't you show me those photographs and show me the
7 other photographs of the -- of the victim so that I
8 can kind of compare.
9 MR. SKURKA: Most of these I think you
10 didn't admit the other day were of the wounds --
11 THE COURT: The wounds itself, okay.
12 MR. SKURKA: -- and of the face. I don't
13 think any of those have come in.
14 THE COURT: Okay.
15 MR. SKURKA: I mean, I know they haven't
16 come in.
17 THE COURT: Okay. All right, let's take
18 a look here.
19 MR. SKURKA: Those are just the ones you
20 looked at the other day. The other ones -- I mean,
21 there's more that I've taken out, too.
22 THE COURT: Okay. You want to take a
23 look, Mr. Garza?
24 MR. GARZA: Yes, Your Honor.
25 THE COURT: Why don't you -- still, I

204

1 want to see the pictures of the ones we've admitted
2 that show the body. I just -- I think it would be
3 helpful to me.
4 All right, Mr. Garza?
5 MR. GARZA: Well, Your Honor, I'm going
6 to lodge the same objection that I had previously.
7 THE COURT: Okay.
8 MR. GARZA: They are rather gruesome and
9 they also are cumulative and we need to know to what
10 issue are they going to relate that the State is
11 needing to use them --
12 THE COURT: Okay.
13 MR. GARZA: -- that the other pictures
14 couldn't accomplish.
15 THE COURT: Well, let me take a look.
16 MR. SKURKA: You'll see a big difference.
17 THE COURT: Okay. Most -- let's see,
18 most of these photographs don't really show the
19 wounds. The only photograph that really does somewhat
20 show the wound is State's Exhibit 17. The rest of
21 them are really from a pretty far distance and I think
22 17 is still from a distance.
23 MR. SKURKA: It doesn't show any
24 close-ups of the face or the wound.
25 THE COURT: It doesn't show any close-ups

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1 of the body. It does show --
2 MR. GARZA: Okay.
3 THE COURT: -- you can see in State's
4 Exhibit 17 if you really look at least two puncture
5 wounds on the neck and then we have this other --
6 okay.
7 MR. SKURKA: And, Judge, I can understand
8 if you go through them and not admit all of them but,
9 you know, I'm going to admit -- I'm going to ask you
10 to get the ones that aren't duplicative and show the
11 different angles of the wounds. The man was stabbed
12 29 times, Judge, and quite a few of them, the doctor
13 will testify, were from around that area.
14 THE COURT: I mean, I think this
15 photograph shows the wound on the neck. I think it
16 shows all of them from what I can tell. And if you
17 can -- if you can show me wounds that aren't in this
18 photograph -- of course, we don't have them marked
19 yet --
20 MR. SKURKA: Sure.
21 THE COURT: -- in here that are not
22 visible, that particular photograph, I'll consider it.
23 MR. SKURKA: This looks pretty much the
24 same. This one looks pretty much the same.
25 Judge, this one shows more of the left --

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1 I'm sorry, yeah, the left shoulder than this one does
 2 and there's some stab wounds around that part, too.
 3 One of them is shown on this picture but the other one
 4 --
 5 THE COURT: Now you're referring to
 6 State's Exhibit 17.
 7 MR. SKURKA: Right.
 8 THE COURT: Okay.
 9 MR. SKURKA: I don't remember seeing the
 10 wounds on the right side. Let me look at my autopsy
 11 diagram.
 12 THE COURT: Okay.
 13 MR. SKURKA: Okay, that shows the neck.
 14 Did Rupp -- I'm sorry, going back in time.
 15 THE COURT: Going backwards.
 16 MR. SKURKA: Dr. Fernandez showed me
 17 where all the wounds were and does that show the right
 18 chin? Okay, there's a wound right here that was not
 19 shown on the other pictures. There's one on the right
 20 side of the neck.
 21 THE COURT: Okay, this picture here I
 22 think shows.
 23 MR. SKURKA: Okay.
 24 THE COURT: Okay. There's one on the
 25 right side of the neck. There's one in -- looks a

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1 little bit to the left of the thorax.
 2 MR. SKURKA: There's not one on the right
 3 side of the neck. Okay, the right side of the neck
 4 doesn't have any wounds so I can eliminate that.
 5 They're all on the left side of the neck.
 6 THE COURT: I really think we ought to
 7 mark those. We can mark them like some astronomical
 8 number.
 9 MR. SKURKA: I know, Judge, but we'll
 10 settle it right here.
 11 THE COURT: Okay.
 12 MR. SKURKA: So which are the two that
 13 you have?
 14 THE COURT: This one here. Now, this
 15 one --
 16 MR. SKURKA: That's the one I showed you
 17 that has more back here on the left shoulder that's
 18 not shown on this part.
 19 THE COURT: Okay. I think that's --
 20 MR. SKURKA: But I'll go ahead and take
 21 these others out.
 22 THE COURT: I think that's reasonable.
 23 Why don't we mark those so the Appeals Court can --
 24 should we get to that point.
 25 MR. SKURKA: If you want me to, Judge, I

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1 will.
 2 THE COURT: I mean, you can mark them 200
 3 to whatever. I think those are repetitive and I
 4 do agree with you that you do need to show the wounds,
 5 but due to the graphic nature of these photographs I'm
 6 only going to allow one photograph to illustrate those
 7 and I think these two photographs can illustrate all
 8 of the wounds that are on the neck and this other one
 9 can show you the wounds that are on the shoulder and I
 10 don't think it's necessary to introduce all of those.
 11 MR. SKURKA: Okay.
 12 THE COURT: So I'm going to let you --
 13 over Defense Counsel objection, I'm going to allow you
 14 to introduce those two. Why don't we mark them.
 15 MR. SKURKA: What are our next two
 16 numbers?
 17 MR. GARZA: For the record, Judge, I just
 18 want to restate the same objection before and the
 19 other -- the other photos seem to have a cumulative
 20 effect which I understand that the -- the Court is
 21 going to sustain that part of the objection.
 22 THE COURT: That's -- sustain that part
 23 of the objection.
 24 MR. GARZA: And if the State can state
 25 the reasons or articulate the reason as to why they

209

1 need those pictures in the first place.
 2 MR. SKURKA: I think I already did that
 3 and the Judge has already ruled so I'll go ahead --
 4 THE COURT: Okay. You want to call those
 5 what?
 6 MR. SKURKA: I'm going to call this --
 7 first of all, Geordie, what are these next ones?
 8 MR. SCHIMMEL: 90 and 91 are the ones I
 9 just marked.
 10 THE COURT: Okay.
 11 MR. SKURKA: 90 and 91 are the ones the
 12 Judge has accepted.
 13 THE COURT: Okay, I'm going to admit
 14 those.
 15 MR. SKURKA: This is 500, 501, 502, 503,
 16 504, 505, and 506 is the ones the Court did not allow
 17 in.
 18 THE COURT: Okay, so I'm going to
 19 sustain your objection as to the ones from 500 to 506.
 20 I'm going to overrule your objection as to 90 and 91.
 21 90 and 91 I guess I might as well just -- we'll just
 22 admit them at this point.
 23 MR. SKURKA: That's what I was going to
 24 ask, Judge, can we just go ahead and move to admit
 25 them?

210

1 THE COURT: Let's go ahead and admit
2 them. That will save a little time. All right, are
3 we ready?
4 MR. SKURKA: Yes, Judge.
5 THE COURT: All right, let's get the
6 witness. I guess somebody get the witness.
7 Mr. Schimmel, I mean, I don't know if you-all want
8 these photographs now. These are the ones that have
9 already -- this is -- these are already admitted that
10 you showed me.
11 All right, you can go ahead and take the
12 stand, and let's bring them in.
13 (Jury enters courtroom.)
14 THE COURT: All right, be seated, please.
15 MR. SKURKA: Thank you, Your Honor.
16 THE COURT: Oh.
17 (Oath administered.)
18 MR. SKURKA: Your Honor, may I proceed?
19 THE COURT: Yes.
20
21 ALLEN KIRKSEY,
22 having been first duly sworn, testified as follows:
23 DIRECT EXAMINATION
24 BY MR. SKURKA:
25 Q. I'm not sure if I've informed you this, Mr.

211

1 Kirksey, but you're under the rule.
2 A. Yes, sir, you did.
3 Q. I did inform you? Okay. You know what that
4 entails?
5 A. Yes, sir, I do.
6 Q. Okay. Let's go ahead and get started by
7 telling us your full name.
8 A. William Allen Kirksey.
9 Q. How are you currently employed?
10 A. I'm a crime scene technician with the Corpus
11 Christi Police Department.
12 Q. How long have you been a crime scene
13 technician with the Corpus Christi Police Department?
14 A. 11 years and months.
15 Q. Can you tell the jury exactly what a crime
16 scene technician does for the City Police Department?
17 A. Basically what we do is we photograph the
18 scene by documenting it, with taking notes, possibly
19 doing a sketch on it, we collect any physical
20 evidence, and finally, we'll process the scene for my
21 latent fingerprints.
22 Q. Explain to the jury what training you've had
23 to become a crime scene technician.
24 A. Okay. I have a Bachelor's degree in computer
25 science, I've had 40 hours of TCLEOSE credit in the

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1 fundamentals of crime scene investigation and evidence
2 collection, I've had 24 TCLEOSE credit hours in
3 shooting incident reconstruction, I've had 40 hours
4 of TCLEOSE credit in basic bloodstain analysis, I've -
5 had 24 hours of TCLEOSE credit -- no, 16 hours of
6 TCLEOSE credit in courtroom testimony, I have 40 hours
7 of TCLEOSE credit in basic -- 40 TCLEOSE hours in
8 fingerprint, patterns and classifications, I've had 40
9 basic hours as a breath test operator, I've had 24
10 hours in techniques of latent fingerprint processing,
11 I've had 24 hours of introduction to crime scene
12 techniques, I've had 40 hours of computer assisted
13 crime scene mapping, I've had 16 hours of field
14 sobriety and courtroom testimony.
15 That's basically the extent of my basically
16 schooling, and then I've had on-the-job training.
17 Q. Before you go on, I want to ask you, you keep
18 saying TCLEOSE training. Can you explain to the folks
19 on the jury what TCLEOSE means, or what that
20 organization is.
21 A. TCLEOSE is basically accredited law
22 enforcement credits toward law enforcement training.
23 Q. And how often do you have to get that or is
24 that required?
25 A. This is no really requirement to get it, and

213

1 in our profession, we do have a career ladder where we
2 have to meet certain TCLEOSE credit hours to obtain
3 the next certification level.
4 Q. And are you certified as a crime scene
5 technician?
6 A. Not at the moment.
7 Q. And how many hours do you have to have?
8 A. I have to have 144.
9 Q. Okay. And how many do you have?
10 A. I got about 209, somewhere around there.
11 Q. You're not certified and you have 209 hours?
12 A. They just implemented this last year --
13 Q. Oh.
14 A. -- and we have to wait a year before we were
15 eligible to take it.
16 Q. I see, so what you're saying is you have
17 enough hours but the certification process has just
18 been put in place?
19 A. Right.
20 Q. Okay. So you actually have more -- twice as
21 much as what's required?
22 A. Yes, sir.
23 Q. Okay. Tell us -- you were talking about
24 besides the schooling, what on-the-job training have
25 you received?

214

1 A. On-the-job training, approximately 3 months
2 of on-the-job physical training where they supervise
3 basically every step that you do as your crime scene
4 technician from taking the photographs to latent print
5 processing to actually going out to the scene and
6 physically being observed doing what you have to do
7 out at the scene by already certified crime scene
8 investigator.

9 Q. And how long did you go through that training
10 with another person helping training on the -- in the
11 field?

12 A. Approximately three months.

13 Q. What tools do you use in your job?

14 A. Well, we use a 35-millimeter camera, we use a
15 digital camera, we use a tripod, we use fingerprint
16 brushes, fingerprint powders, alternate light sources,
17 Microseal, dental stone, measuring tape, various hand
18 tools such as saws, screw drivers, ladders, amido
19 black chemicals of various types.

20 Q. How many crime scenes have you worked as
21 your -- what did you say, 11 years as a crime scene
22 technician, would you guesstimate?

23 A. Estimate about 30 calls a week, times 52
24 weeks per year times, what, 11, almost 12 years, just
25 guesstimating, a good 5- to 8,000, at least.

215

1 Q. And those -- those range from smaller crimes
2 to capital murder cases?

3 A. Yes, sir, it does.

4 Q. Okay. Have you testified in court before as
5 an expert in crime scene or crime scene work?

6 A. Yes, sir, I have.

7 Q. How many times have you testified in court in
8 that regard?

9 A. I would say a good 500 times at least.

10 Q. Mr. Kirksey, I now want to direct your
11 time -- your attention back to a time of July 19th,
12 2004, and ask you if you had occasion to be called out
13 to assist in an investigation at or near the 1902
14 Baldwin Street which is referenced as the Times
15 Market?

16 A. Yes, sir, I did.

17 Q. Can you tell the folks on the jury when you
18 got called out and how you were called out?

19 Q. At that time I was working the graveyard
20 shift which was 11 p.m. to 7 a.m. At approximately
21 11:47 p.m. I received a radio call from the dispatcher
22 asking me to be in route to 1902 Baldwin. In this
23 case, she said for an injured party. Upon my arrival
24 I discovered that it was actually a homicide.

25 Q. What did you do then?

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1 A. I basically took notes, located any physical
2 evidence that was there, photographed the scene, and
3 collected any of the physical evidence.

4 Q. Did you also talk with any detectives or
5 officers at the scene and directing you to what
6 happened or what they think happened or where the
7 items -- evidence were?

8 A. Basically the officer gave me a little run
9 down of what he knew at the time and really not even
10 that much of it. He basically gave me the case number
11 and the victim's name, and basically that was it.
12 Other than that, they basically went and started
13 interviewing the witnesses that were on scene.

14 Q. So you just had the peripheral knowledge of
15 what had happened?

16 A. Basically, yes, sir.

17 Q. So what did you do?

18 A. Basically I located any of the physical
19 evidence, I placed markers down on this evidence, I
20 then photographed the scene, I then did a rough crime
21 scene sketch of the scene. I then collected the
22 physical evidence and then I departed the scene until
23 the next day when I went to the morgue to attend the
24 autopsy.

25 Q. Okay. Let's start at the Times Market. I

217

1 know you did a whole lot of stuff on this case but
2 let's start at the Times Market, okay?

3 A. Okay. Now, for the record, you wrote like a
4 26-page report on this case; correct?

5 A. Yes, sir.

6 Q. And the Times Market was not the only thing
7 that you did in this case but it's one of the things
8 that you did; correct?

9 A. Yes, sir.

10 Q. Let's start with that then and I'm going to
11 ask you, can you describe the scene as you saw it that
12 night? What did you find when you arrived at the
13 scene?

14 A. Basically, I observed the victim laying on
15 his back in what appeared to be a pool of blood.
16 Surrounding the victim was numerous pieces of loose
17 paper, white envelopes, paper sacks, ball cap, a gold
18 ring, and in one of parking spaces this was a quarter.
19 In addition to that, I saw numerous bloody -- a pair
20 of bloody shoe impressions and tire impressions around
21 the body.

22 Q. When you say -- you said that you took
23 photographs first. Did you come to draw a crime scene
24 diagram or to scale -- not to scale, or to scale?

25 A. Yes, sir, I did.

218

1 MR. SKURKA: May I approach?

2 THE COURT: Yes.

3 Q. (BY MR. SKURKA) I show you what's already

4 been admitted into evidence as State's Exhibit 17. Do

5 you recognize that?

6 A. Yes, sir, I do.

7 Q. What is it?

8 A. It's Pablo Castro and it also shows a letter

9 marker of K.

10 Q. Okay. Is that the scene as Pablo Castro

11 appeared that night?

12 A. Yes, sir, it is.

13 Q. I show you two other items that have already

14 been admitted as State's Exhibit 90 and 91. What are

15 those?

16 A. 91 is a close-up of one of Pablo Castro's

17 neck wounds.

18 Q. And 90?

19 A. Basically it's a close-up of Pablo Castro's

20 face, also showing the neck wound.

21 Q. Okay. And you're the one that took those

22 photographs?

23 A. Yes, sir.

24 Q. And do these photographs fairly and

25 accurately represent Pablo Castro as he looked that

219

1 night?

2 A. Yes, sir.

3 Q. I show what's marked State's Exhibit 92 and

4 93 and ask if you can identify them.

5 A. Yes, sir I can.

6 Q. What are they?

7 A. These are the final drawings to the sketch

8 that I performed at the scene at the Times Market that

9 evening.

10 Q. What is the difference between 92 and 93, if

11 anything?

12 A. 92 is the entire overall scene, 93 is a

13 close-up just basically surrounding the body of Pablo

14 Castro.

15 Q. Okay.

16 MR. SKURKA: Judge, I believe that 91

17 and 90 have already been admitted so I move that 92

18 and 93 be admitted into evidence after showing them to

19 Defense Counsel.

20 MR. GARZA: No objection, Your Honor.

21 THE COURT: All right, they're

22 admitted.

23 Q. (BY MR. SKURKA) Would these items help the

24 jury coordinate and help you show to the jury where

25 these certain items were found that you're going to

220

1 testify to?

2 A. Yes, sir, it would.

3 Q. And you've already -- I've already shown you

4 State's Exhibit 17. I'm now going to show you if you

5 were -- were you able to get close enough to examine

6 the victim's body?

7 A. Yes, sir, it I was.

8 Q. And see the wounds?

9 A. Well, some of the wounds, yes.

10 Q. Some of the wounds. And I'll show you what

11 the Judge has -- had -- I'm sorry, what we've marked

12 as 90 and 91 and ask if you can identify --

13 MR. SKURKA: May I publish them to the

14 jury?

15 THE COURT: Yes.

16 Q. (BY MR. SKURKA) Okay. I'm going to show you

17 what's No. 90. What is that a photograph of?

18 A. That is a photograph of Pablo Castro's face

19 and --

20 Q. There's a laser pointer in front of you.

21 A. Right in this vicinity, I can't tell which

22 one, either that or that there is a knife wound to his

23 neck.

24 Q. Now, at the time you're out there do you

25 have -- do you look for every wound that's on his

221

1 body?

2 A. No, sir, I do not.

3 Q. Were these just the obvious wounds that you

4 can see?

5 A. Just the obvious wounds that I can see.

6 Q. And is that the appearance, how he appeared

7 that day?

8 A. Yes, sir.

9 Q. I'll show you a more close-up which is marked

10 91. What is that?

11 A. That is a close-up of Pablo Castro's neck and

12 you can see a pair of knife wounds right there on his

13 neck.

14 Q. Thank you. Now let's look at 91 -- I'm

15 sorry, 92. What does 92 depict?

16 A. It looks like 92 depicts the entire crime

17 scene.

18 MR. SKURKA: Would you go a little

19 closer on that, Geordie. Okay, now move to the right.

20 Q. (BY MR. SKURKA) Just to orientate yourself

21 because I need to get closer to show the jury what

22 we're talking about. Using the laser pointer, can you

23 show me where the building is and where the body was

24 located, please.

25 A. This here is the physical Times Market, the

222

1 front entrance to the Times Market. Basically over
2 here if I remember right is a car wash and the
3 physical body is here. There's a street going right
4 across here and then there's another street going over
5 in this direction.

6 Q. Okay. Let me take this out wider to show you
7 that. Now, are you sure the street is behind that at
8 the top of that item or is it to the left?

9 A. Talking about Riggan Street here?

10 Q. Yes?

11 A. Okay, it's on the left, yes.

12 Q. And where would Baldwin Street be?

13 A. I believe it's going to be up here but I'm
14 not entirely certain without seeing the rest of
15 the scene.

16 Q. Do you mean the rest of the scene in the
17 photographs? I'll show you what's marked State's
18 Exhibit 3 which you said was a closer-up view of the
19 items that you mentioned?

20 A. Yes, sir.

21 Q. What does that show?

22 A. Start off over here, this is a pair of tire
23 track. I can't tell you whether it's a tire track or
24 just a normal tire track. Again, here's another tire
25 track, and all these little dots here which is too

223

1 small for me to read is various pieces of evidence.

2 Q. Let's go in a little closer then. I assume
3 that body diagram is where Pablo Castro lay?

4 A. Yes, sir.

5 Q. And can you tell us what those numbers
6 represent all around the body?

7 A. Not without referring to my notes.

8 Q. Okay, go ahead. Well, can you tell us
9 generally what they are?

10 A. Okay, generally, they're going to be tire
11 tracks, shoe impressions, paper sacks, envelopes, gold
12 ring, ball cap, quarter, basically all the evidence
13 that I mentioned earlier that was surrounding his
14 body.

15 Q. I'm going to go through the diagram and go
16 through your report and ask you about certain items
17 that you recovered and the corresponding number.
18 Would that be easier to go by?

19 A. Yes, sir.

20 Q. Okay. Let's look at page 1 of your report
21 then, and I'm going to direct your attention to item G
22 labeled item G. Where is that found on the diagram?

23 A. It would be located right here.

24 Q. And what was item G, please?

25 A. Item G was a white envelope containing a pay

224

1 stub.

2 Q. And was there anything else on the pay stub?

3 A. It had a -- what appeared to be apparent
4 bloodstain on it.

5 MR. SKURKA: May I approach the witness,
6 Your Honor?

7 THE COURT: Uh-huh.

8 MR. SKURKA: May I approach?

9 THE COURT: Yes, yes.

10 Q. (BY MR. SKURKA) I show you what's been
11 marked State's Exhibit No. 94 and 95. What do those
12 depict, please?

13 A. 94 is the picture of the envelope as it
14 appeared out at the scene.

15 Q. And what is 95?

16 A. 95 is a lab photograph that I took of the
17 same envelope depicting apparent bloodstain that was
18 on the envelope.

19 Q. So 94 and 95 are the same thing, one is just
20 taken at the scene and one is at the lab?

21 A. Yes, sir.

22 MR. SKURKA: I tender State's Exhibit
23 No. 94 and 95 to Defense Counsel and offer into
24 evidence.

25 MR. GARZA: No objection, Your Honor.

225

1 THE COURT: They're admitted.

2 Q. (BY MR. SKURKA) Now I'm going to show them
3 to the jury and, again, they correspond to the letter
4 G on there; correct?

5 A. Yes, sir, they do.

6 Q. What does G show and using your laser
7 pointer.

8 A. G shows the white envelope here on the -- I
9 don't know if you can see it. Yeah, you can see it.
10 On the outside you'll see Pablo's first name and right
11 here you can see the apparent bloodstain on it.

12 Q. Can we show lab picture now, which is State's
13 Exhibit 95. What is that?

14 A. That is the same envelope, G, that was found
15 out at the scene. You can see Pablo's name on the
16 outside of it and you can see the apparent bloodstain
17 right here.

18 MR. SKURKA: Judge, these are little
19 layered on so do you mind if I publish them to the
20 jury by hand, hand them to the jury, is that okay?

21 THE COURT: Yeah, that's fine.

22 MR. SKURKA: So they can look at them
23 themselves?

24 THE COURT: That's fine.

25 MR. SKURKA: I'll start up here and then

226

1 you-all can pass them down this way.
 2 Q. (BY MR. SKURKA) So you collected that and
 3 labeled that, correct?
 4 A. Yes, sir, I did.
 5 Q. What is the next thing you saw according to
 6 your report? And I'm going to direct you back to N,
 7 the letter N.
 8 A. Letter N will be black and yellow K-Products
 9 ball cap.
 10 Q. And where was that found in location and
 11 direction to the body? I'm sorry, I guess the diagram
 12 would help you see that; correct?
 13 A. Yes, sir.
 14 Q. Where would N be?
 15 A. N would be right there.
 16 Q. And N represents the location of the ball
 17 cap?
 18 A. Yes, sir, it does.
 19 MR. SKURKA: May I approach, Judge?
 20 THE COURT: Yes.
 21 Q. (BY MR. SKURKA) I show you 96 and 97. What
 22 are they?
 23 A. Okay. Evidence 96 is a close-up of the ball
 24 cap labeled as N that was originally at the crime
 25 scene.

227

1 Q. What's the other one?
 2 A. Exhibit 97 is basically the mid range of this
 3 photograph that shows a little more detail of various
 4 other items surrounding the ball cap --
 5 Q. So would it be fair -- I'm sorry, I didn't
 6 mean to interrupt. Go ahead and finish.
 7 A. Labeled as N.
 8 Q. Okay. So would it be fair to say that one of
 9 them is a mid-range shot and one is a more close-up
 10 shot of the ball cap?
 11 A. Yes, sir.
 12 Q. And that was taken by you?
 13 A. Yes, sir.
 14 Q. And do they fairly and accurately represent
 15 the scene as it was that night?
 16 A. Yes, sir, they do.
 17 MR. SKURKA: I show State's Exhibit 96
 18 and 97 to Defense Counsel and offer them into
 19 evidence.
 20 MR. GARZA: No objection, Your Honor.
 21 THE COURT: All right, they're
 22 admitted.
 23 MR. SKURKA: May I publish them to the
 24 jury, Your Honor?
 25 THE COURT: You may.

228

1 MR. SKURKA: Would you show them up on
 2 the screen so everybody can see them, please.
 3 Q. (BY MR. SKURKA) What does that show, that
 4 would be 95, I believe?
 5 A. 97.
 6 Q. That's 97, I'm sorry.
 7 A. 97 here which is the photograph being shown
 8 is the mid-range photograph showing the ball cap N
 9 along with various other items that were found at the
 10 crime scene.
 11 Q. And the next one 95 -- or 96, I'm sorry?
 12 A. That is the ball cap, a close-up of the ball
 13 cap and letter labeled as N in the crime scene.
 14 Q. Going back to the diagram, please, what is
 15 the next thing you found after the ball cap that you
 16 labeled, and I'm going to direct your attention to
 17 label P as in Paul?
 18 A. Letter P is right here near the body on the
 19 diagram and that is going to be a 10K gold ring.
 20 Q. And for record, that's showing slightly to
 21 the right of the body in the diagram?
 22 A. Yes, sir.
 23 MR. SKURKA: May I approach?
 24 THE COURT: Yes.
 25 Q. (BY MR. SKURKA) I show you what's marked

229

1 State's Exhibit 98 and 99. Can you identify those for
 2 the jury, please.
 3 A. Exhibit 98 a mid range of the letter P which
 4 depicts the gold ring, and Exhibit 99 is a close-up of
 5 this gold ring labeled as P in the photograph.
 6 Q. And that's the same thing that's represented
 7 in the diagram next to the body?
 8 A. Yes, sir.
 9 MR. SKURKA: I show Defense Counsel 98
 10 and 99 and offer them into evidence, Your Honor.
 11 MR. GARZA: No objection.
 12 THE COURT: All right, they're
 13 admitted.
 14 MR. SKURKA: Now that they've been
 15 admitted into evidence I'll have them published to the
 16 jury.
 17 Q. (BY MR. SKURKA) What does 98 now that's been
 18 admitted show?
 19 A. That is the mid-range photograph of the crime
 20 scene showing the letter P which was the gold ring.
 21 Q. Why do you-all use those little -- I don't
 22 know what they call them, markers or cones there?
 23 A. It makes it a lot easier to distinguish the
 24 evidence, especially in far-away photographs. In
 25 addition to that, sometimes -- you can't see it here

230

1 but there's a scale on the bottom of the thing which
 2 will enable you to determine size.
 3 Q. So P represents where the ring was found;
 4 correct?
 5 A. Yes, sir.
 6 Q. And we'll show up the close-up now. And what
 7 does that depict, State's Exhibit 99?
 8 A. 99 is a close-up of the letter P which is the
 9 10K gold ring, and you can see it right there and this
 10 is the scale that I was talking about.
 11 Q. And where is -- indicate the ring for the
 12 jury, please.
 13 A. The ring is right there.
 14 Q. So that was found -- going back to the other
 15 photograph before that, how far is that from the body?
 16 A. Oh, I could only give you an estimate,
 17 probably no more than three feet, if that.
 18 Q. You didn't measure that part?
 19 A. Well, I have to have the crime scene sketch
 20 shown and then I would have to take a ruler to it.
 21 Q. Okay. That's all right, the estimate is fine
 22 at this time.
 23 What is the next thing you found in relation
 24 to the body, and I'll direct your attention to the
 25 report and the letter T.

231

1 A. That would be a quarter.
 2 Q. And looking at the diagram again.
 3 A. You'll have to move out. It's going to be in
 4 the parking space way over here.
 5 Q. It's where?
 6 A. In one of parking spaces and I think it's
 7 over here.
 8 Q. Is it on the other diagram --
 9 A. Yes, sir.
 10 Q. -- is that what you're saying? Okay, we'll
 11 switch diagrams then.
 12 A. I believe it's going to be that there but I
 13 have to see a close-up of it.
 14 Q. We're coming for you.
 15 A. Right there.
 16 Q. Okay. So this was a quarter found in the
 17 parking space. And which parking space is that? How
 18 many over from the front of the store?
 19 A. Two over this direction, five over from the
 20 other direction.
 21 Q. Okay. You can't say "other direction," the
 22 record doesn't show what that is. From the front of
 23 the store?
 24 A. Now, there's directions, I don't know which
 25 way you're going. Two from the north and five from

232

1 the south.
 2 Q. Okay. From the front of the store, sir.
 3 A. This is going to be the front.
 4 Q. Okay. Isn't the front of the store right
 5 here, sir?
 6 A. That's the store but you're talking about how
 7 many parking spaces over. That's one, two, and that's
 8 going to be facing north. This is south down here,
 9 that's going to be one, two, three, four, five from
 10 the south end.
 11 Q. Okay.
 12 A. Maybe I'm not following question that you're
 13 asking.
 14 Q. All I'm trying to figure out is a reference
 15 point to how many spaces over from the front door of
 16 the store, the front area of parking lot is. That
 17 would be five, would it not?
 18 A. The front door to the store is actually right
 19 here so it would be right in front of the door.
 20 Q. Let me show you a photograph of the front of
 21 the store, please. I'm going to show you a couple of
 22 photographs marked 5 and 4. Please take a look at
 23 these and tell me if the front of the store is over on
 24 the side of the building where the parking spaces are?
 25 A. The front of the store is going to be located

233

1 over here.
 2 Q. And where are the parking spaces?
 3 A. The parking spaces there and I think you also
 4 got some over here but I'm not entirely certain.
 5 Q. Okay. But where did you find -- where would
 6 T be in that picture?
 7 A. If I remember it's going to be over here but
 8 I can't see clear enough in the photograph to tell you
 9 for certain.
 10 Q. How about an aerial photograph, would that
 11 help you? Yes, no?
 12 A. Might.
 13 Q. I'm going to show you what's marked State's
 14 Exhibit 13 and give you a better reference point,
 15 please. That's already been admitted into evidence.
 16 Where would the crime scene be in relationship to the
 17 store, is it the front of the store or the side of the
 18 store?
 19 A. Right in this area right here.
 20 Q. And where are the parking spaces?
 21 A. You got parking spaces right back here, and
 22 you might have some up here but I would have to see
 23 beyond this.
 24 Q. The photographs that you saw a minute ago,
 25 are they over here and the body was found there or

234

1 here?

2 A. The body was found right over here.

3 Q. Where was the dumpster?

4 A. Dumpster should have been somewhere in this
5 vicinity but it's not here.

6 Q. Okay.

7 MR. SKURKA: May I have just a moment?

8 THE COURT: Yes.

9 MR. SKURKA: I'm sorry, we're having
10 trouble finding the right picture. State's Exhibit 19
11 might be better.

12 Q. (BY MR. SKURKA) Does that show a different
13 perspective or angle where the body was and where the
14 dumpster was?

15 A. You got the driveway there, you're going to
16 have another driveway over here, you're going to have
17 a street over here, you got the store here, and you're
18 going to have another street over here.

19 Q. I understand. Wasn't the dumpster back
20 toward the back fence, not on the side?

21 A. Okay, might be closer to the fence, yes, sir.

22 Q. Okay. It would be fair to say it's closer to
23 the back fence than it is to the exit that you pointed
24 out earlier; correct?

25 A. Right.

235

1 Q. Okay. I know it's been four years ago so I
2 want to make sure we have the angle right and
3 everything. Let's go back to T. You said it was a
4 quarter that was found over there?

5 A. Yes, sir.

6 MR. SKURKA: And let's go back to the
7 diagram, Geordie. Maybe we can use that as a
8 reference point.

9 May I approach, Your Honor?

10 THE COURT: Yes.

11 Q. (BY MR. SKURKA) I show you what's been
12 marked State's Exhibit No. 100 and 101. Can you look
13 at those and see if you can recognize those?

14 A. 100 is going to be the mid-range photograph
15 of the letter T which represents the quarter that was
16 found laying in the parking space at the crime scene,
17 and Exhibit 101 is going to be a close-up of the
18 quarter labeled as T that was laying in the parking
19 space at the crime scene.

20 Q. And can you show us again on the diagram
21 where that was?

22 A. Right here.

23 Q. Okay, thank you.

24 MR. SKURKA: I tender 100 and 101 to
25 Defense Counsel and offer them into evidence.

236

1 MR. GARZA: We have no objection, Your
2 Honor.

3 THE COURT: They're admitted.

4 MR. SKURKA: May I publish them to the
5 jury, Judge?

6 THE COURT: You may.

7 Q. (BY MR. SKURKA) What is that, please, No.
8 100?

9 A. 100 is going to be the mid-range photograph
10 of the letter T which represents the quarter that was
11 laying in the parking space at the crime scene.

12 Q. And 101?

13 A. Is going to be a close-up photograph of the
14 letter labeled T which is the quarter that was laying
15 in the parking space at the crime scene.

16 Q. And did you collect that piece of evidence
17 also?

18 A. Yes, sir, I did.

19 Q. Now, did you take photographs of the scene
20 and the body in relation showing to all the -- I'm
21 sorry, all cones?

22 A. Yes, sir, I did.

23 Q. Okay. I'm going to show you 24 and 23. Do
24 those show the location of the various cones found
25 around the victim's body?

237

1 A. Yes, sir, they do.

2 Q. And if we move in closer in on it you can see
3 the actual letters; correct?

4 A. Yes, sir, you could.

5 Q. Now, after you took pictures of these and
6 you -- we've shown you the pictures, did you actually
7 collect those items themselves?

8 A. Yes, sir, I did.

9 MR. SKURKA: May I approach, Your Honor?

10 THE COURT: Yes.

11 Q. (BY MR. SKURKA) No. 102, I'm going to show
12 you, a packet marked State's Exhibit 102. Can you
13 identify what that is?

14 A. Yes, sir, I can.

15 Q. What is it?

16 A. It's going to be the ball cap labeled as N I
17 believe in the photographs.

18 Q. Would you go ahead and open that package and
19 don't disturb the other seals. Are you the one that
20 packaged it and put it inside that brown paper sack?

21 A. Yes, sir, I am.

22 Q. Would you open it and retrieve the item
23 within it.

24 A. (Witness complying.)

25 Q. Can you identify the content of that exhibit,

238

1 please.

2 A. Yes, sir, I can.

3 Q. What is it?

4 A. It's going to be the black and yellow

5 K-Products ball cap labeled as N that was in the crime

6 scene.

7 Q. Is that the same one that's depicted in the

8 photographs and in the diagram that you showed

9 earlier?

10 A. Yes, sir, it is.

11 MR. SKURKA: Your Honor, I move for the

12 admission of that exhibit.

13 MR. GARZA: No objection, Your Honor.

14 THE COURT: It's admitted.

15 MR. SKURKA: Just set it on top of that

16 stack. Judge, I have about two or three more items

17 and then I think I'll have a stopping point.

18 THE COURT: Okay.

19 Q. (BY MR. SKURKA) And for the record, 102 is

20 actually a paper sack that contains the ball cap

21 itself, right?

22 A. Yeah, Exhibit No. 102.

23 Q. I show you what's marked State's Exhibit No.

24 103. Can you recognize that?

25 A. Yes, sir, I can.

239

1 Q. What is it?

2 A. It is going to be the 10K gold ring that was

3 found at the crime scene.

4 A. How do we know it's the same one.

5 A. Because it is in the same envelope that I

6 sealed it in when I collected it at the crime scene.

7 Q. And did you fill out the evidence tag?

8 A. Yes, sir, I did.

9 Q. I'm going to ask you to open up State's

10 Exhibit 103 with the scissors, please.

11 A. (Witness complying.)

12 Q. Were you able to take that out? What is it?

13 A. It's the 10K gold ring that I found at the

14 crime scene.

15 Q. Is that the same gold ring you found at the

16 crime scene labeled what was the number on there? The

17 letter, I'm sorry.

18 A. P, I believe.

19 MR. SKURKA: Your Honor, we'd ask him

20 to show that to the jury and first move for its

21 admission.

22 THE COURT: Any objection?

23 MR. GARZA: No objection, Your Honor.

24 THE COURT: It's admitted.

25 Q. (BY MR. SKURKA) Can you show it to the jury,

240

1 please. Is that -- is that the same ring that you

2 showed in the photograph earlier?

3 A. Yes, sir, it is.

4 Q. Okay. You can set that down and now I'm

5 going to show you what's marked State's Exhibit 104.

6 Can you identify State's Exhibit 104, please.

7 A. It's going to be the quarter that I found at

8 the crime scene.

9 Q. And what does -- what letter does it --

10 corresponds to the coin?

11 A. That's going to be the letter T.

12 Q. That's the letter T that you said you found

13 in the parking -- I'm sorry, the quarter found in the

14 parking space on the side of the building?

15 A. Yes, sir, it is.

16 Q. Can you open that and see if you can identify

17 the contents of 104?

18 A. Yes, I can.

19 Q. What is it?

20 A. It's the quarter that I found at the crime

21 scene.

22 Q. How do we know it's the same one?

23 A. Cause it's still in the sealed clear plastic

24 bag that I put it into.

25 Q. Is it the same condition as it was when you

241

1 found it?

2 A. Yes, sir, it is.

3 MR. SKURKA: We move for its admission,

4 Judge, State's Exhibit 104.

5 MR. GARZA: No objection, Your Honor.

6 THE COURT: It's admitted.

7 Q. (By MR. SKURKA) And could you hold it up and

8 show that to the jury, please.

9 A. (Witness complying.)

10 MR. SKURKA: Judge, I believe this is all

11 I have from this scene. I ask this we continue

12 tomorrow morning.

13 THE COURT: Okay. All right, ladies and

14 gentlemen, let's break for the day. We'll see you at

15 9:00 tomorrow. Let's all rise for the jury.

16 (Jury exits courtroom.)

17 THE COURT: Be seated. Anything we need

18 to take up before tomorrow?

19 MR. GARZA: No, Your Honor.

20 THE COURT: Okay. See you-all tomorrow.

21 (Adjournment.)

1 THE STATE OF TEXAS)

2 COUNTY OF NUECES)

3 I, Mary Lopez Buitron, Official Court
4 Reporter in and for the 94th Judicial District Court of
5 Nueces County, State of Texas, do hereby certify that
6 the above and foregoing contains a true and correct
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9 parties to be included in this volume of the Reporter's
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11 which occurred in open court or in chambers and were
12 reported by me.

13 I further certify that this Reporter's
14 Record of the proceedings truly and correctly reflects
15 the exhibits, if any, admitted by the respective
16 parties.

17 I further certify that the total cost for
18 the preparation of this Reporter's Record is \$_____
19 and was paid/will be paid by_____.

20 WITNESS MY OFFICIAL HAND this the 14
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